

V. ACCOUNTABILITY AND OVERSIGHT

A. Use of Cameras in Policing

172. The City and CPD will retain aspects of its body-worn camera and in-car video systems policies, but will supplement existing policies as follows:

173. The City shall ensure that all patrol officers, supervisors, and officers who regularly interact with the public, including tactical officers, are equipped with body cameras. The City shall equip all marked and unmarked CPD vehicles with fully functioning in-car cameras with microphones.

174. The City and CPD shall maintain camera policies that require officers to record all encounters with civilians except for specifically indicated exceptions designed to protect officer safety and civilian privacy. Following any use of force or other incident requiring notification to the CI, officers shall be prohibited from stopping or interfering with cameras that were recording until a representative from the CI arrives on the scene. In addition, CPD policy shall prohibit officers, except in emergency circumstances, from deactivating their cameras until they present themselves to be interviewed by the CI.

175. Body-worn cameras must be used regardless of whether an in-car camera is also being used, and vice versa.

176. Officers who fail to comply with CPD's camera policy shall be subjected to discipline.

177. Within 180 days of the Effective Date, the City shall stop allowing officers to review or receive an accounting of any video footage prior to completing any required initial reports, statements, and interviews regarding the recorded event, unless doing so is necessary, while in the field, to address an immediate threat to life or safety.

178. The City and CPD shall revise the camera policies to better protect civilian privacy, including by prohibiting surreptitious recording for the purpose of intelligence gathering based on First Amendment protected speech, associations, or religion; limiting recording in schools absent exigent circumstances; and prohibiting the use of biometric technologies on footage.

179. The City and CPD shall develop camera policies that expressly allow a person who files a complaint to view the recorded footage of their interaction with the police.

180. The City shall provide sufficient funds to maintain all cameras in working order and to retain the staff necessary to maintain and retrieve footage.

181. The City shall flag for retention video and audio recordings of incidents that result in investigative stop reports, TRRs, arrests, and misconduct complaints. (CPD Special Order 03-14). The City shall continue to retain un-flagged recordings for ninety days, and retain flagged recordings for at least three years. The City shall retain recordings relating to an arrest or use of force in perpetuity, but provide privacy protections for non-officer subjects.

182. The City and CPD shall develop protocols for storing footage, to allow for easy retrieval and searching, and for the regular assessment of camera use. In order to ensure that body-worn and in-car camera footage is easily searchable, CPD will require the identification and tagging of such footage according to the following categories:

- a. Identity of officer wearing the camera;
- b. Identities of other officers involved in the recorded incident;
- c. Category of activity shown in the footage (*e.g.*, stop, use of force, arrest, etc.);
- d. Identification and tagging of camera footage with any event or incident number that can be used to link footage to other documentation, such as Investigatory Stop Reports, TRRs, case incident reports, arrest reports, OEMC events and complaint logs.

183. The City shall address the findings and recommendations of the OIG's audit of the more than 2,700 public safety cameras jointly purchased by OEMC, CPD and the Chicago Fire Department (CFD).

184. The Monitor, with assistance from the OIG, will ensure that OEMC is properly managing access to and use of the public safety camera system.

B. Community Oversight

185. The City will establish a civilian oversight and accountability body (CO) as an office of municipal government. The CO shall be composed of elected individuals, one from each police district in the City of Chicago. Each CO member shall have voting power equivalent to the percentage of the population of the City of Chicago residing in his or her district. Once elected, CO members shall employ such deputies, assistants, and other employees as required to fulfill the obligations of the CO.

186. The CO shall be comprised exclusively of city residents who themselves have been impacted by police abuse, or who represent communities that have been most impacted by police abuse. Eligible candidates shall be limited to: individuals representing civil rights, activist, and organizing groups that focus on issues relating to young people, African-Americans and/or Latinxs and their interactions with the police; individuals with experience and expertise related to protecting the rights of immigrants; individuals with experience and expertise related to protecting the rights of LGBTQI communities; individuals with experience and expertise related to protecting the rights of Middle Eastern and/or Muslim communities; individuals from the faith-based community with experience and expertise related to protecting the rights of individuals who have been subjected to police abuse; individuals with experience and expertise related to protecting the rights of people living with mental illness and/or other disabilities; individuals with experience and expertise related to protecting the rights of people who are homeless; individuals with experience and expertise related to protecting the rights of people who have been victims of police sexual abuse or assault; and individuals with experience and expertise related to protecting the rights of people who have been victims of police misconduct or brutality. Former and active law

enforcement officers and their family members, including spouses, domestic partners, parents, siblings, children, grandparents, and grandchildren, are not eligible to serve on the CO.

187. The CO shall have the following powers:
 - a. to appoint the CPD superintendent and members of the CI, and, upon a finding of good cause, move to terminate the superintendent or the CI;
 - b. to oversee the civilian investigation of claims of police abuse and misconduct;
 - c. to approve rules and regulations for the governance of CPD and for civilian investigations;
 - d. to conduct public hearings on all matters related to CPD and its oversight entities, and to require members of those bodies to appear at these hearings;
 - e. to obtain confidential access to the databases and records of CPD, OEMC, and other oversight entities of CPD;
 - f. to maintain and regularly update a website that makes public the information related to the CO;
 - g. to attend, observe, and assess police training programs, and provide a public report on that assessment;
 - h. to observe any officer performance evaluations;
 - i. to review, approve and submit to City Council the annual budget for CPD;
 - j. to hear and/or appoint hearing officers to hear disciplinary actions for which a suspension of more than the 30 days is recommended (which is expressly reserved to the Superintendent) or for removal or discharge;
 - k. to refer instances of police-related criminal conduct to the appropriate law enforcement entity;
 - l. to approve and negotiate contracts with police unions;
188. The CO or CO members may also facilitate:
 - a. Restorative circles;
 - b. Station adjustments;
 - c. Community accommodation awards;

- d. Random monitoring of police vehicle surveillance recording equipment; and
- e. Attendance at any roll calls.

C. Civilian Investigations

189. Civilian investigations will be overseen by the CO. The Civilian Investigative Entity (“CI”), currently COPA,¹⁴ will provide the people of Chicago and their police officers with a fair and impartial system for the investigations of civilian police complaints and police use of force; ensure that police officers are held accountable when they abuse their power or otherwise violate the public trust; identify, investigate, and terminate officers who have engaged in patterns of misconduct; address the police code of silence; and create a transparent process by which members of the public can monitor and evaluate police misconduct and use of force investigations.

1. Jurisdiction of Agencies

190. The jurisdiction for CI shall be expanded to address all police misconduct complaints resulting from interactions with community members, including complaints of domestic violence; sexual abuse, sexual assault, or other sexual misconduct; verbal abuse; and First Amendment violations. It shall also be expanded to include the investigations of the following, even without any complaint: CPD interactions that result in civil lawsuits that allege that a CPD officer engaged in excessive force, sexual misconduct, a false arrest, illegal search or seizure, and/or another civil rights violation or tort; and instances in which a judge grants a criminal motion to suppress or quash based on constitutional violations of CPD officers or finds that a CPD officer gave false or incredible testimony. In no circumstance will any of these types of complaints be investigated at the district level.

191. CI’s jurisdiction will also include, even without any complaint, investigations of cases in which a CPD officer discharges and/or uses his or her stun gun, taser, or any other weapon to inflict pain or induce compliance in a manner that could potentially strike an individual, and cases in which a person dies or sustains any injury that requires medical attention as a result of an interaction with CPD or while in CPD custody. Under no circumstances will discharges of such weapons be referred to investigation by the districts.

192. CI will investigate no-hit shootings for compliance with policy and investigate whether shootings labeled no hit actually resulted in an injury. To the extent that no-hit shootings are outside CI’s jurisdiction, the City will propose and endorse an ordinance to ensure they are investigated by CI. If the ordinance does not become law, BIA must investigate and provide public reports on the investigations.

193. CI shall have full administrative access to any documents that it needs to conduct an investigation and evaluate and report on the outcome of its recommendations, including but not

¹⁴The current Civilian Investigative Entity is the Civilian Office of Police Accountability (COPA). Campbell plaintiffs’ advocate for a change in the investigative and oversight structures, as set forth in this Agreement.

limited to information retained by CPD, OIG, the Police Board,¹⁵ or any other City department or agency.

2. Investigators' and Supervisors' Training

194. The CI will continue to provide new investigators with the same number of hours of comprehensive training on conducting employee misconduct investigations as COPA currently provides. The City will ensure that BIA officers and district investigators who investigate police misconduct will receive at least 40 hours of comprehensive training on conducting employee misconduct investigations. The City will ensure that training covers interview techniques in detail.

195. The City will ensure that the CI continues to provide new investigators with the same number of hours of comprehensive training on conducting employee misconduct investigations as it currently provides. The City will ensure that BIA officers and district investigators who investigate police misconduct will receive at least 40 hours of comprehensive training on conducting employee misconduct investigations.

196. The City's training will include instruction in:

- a. Investigative skills, including proper interrogation and interview techniques; gathering and objectively analyzing evidence; and data and case management;
- b. How to appropriately classify complaints pursuant to agency policy;
- c. The particular challenges of administrative law enforcement misconduct investigations, including identifying alleged misconduct that is not clearly stated in the complaint or that becomes apparent during the investigation;
- d. Weighing the credibility of witnesses, including properly weighing the credibility of civilian witnesses against officers' credibility;
- e. Using objective evidence to resolve inconsistent statements;
- f. The proper application of the appropriate standard of proof;
- g. Relevant CPD and agency rules and policies, including protocols related to administrative investigations of alleged officer misconduct;
- h. CPD policies, including the requirements of this Agreement and protocols related to administrative investigations of officer misconduct;
- i. Relevant state and federal law, and
- j. Testing the credibility of the witness by comparing statements and other evidence; questioning witnesses about what they had read and reviewed prior to the interview as well as who they conferred with prior to the interview; the limits of attorney-client privilege to prevent unlawful coaching by an attorney; leaving recording devices on throughout an interview so that there

¹⁵ See Section V(C)(10) governing Discipline and the Police Board.

is a record if an officer asks to confer with his or her attorney; and the use of open-ended questions to elicit information.

197. Training will be provided by sources both inside and outside of CPD, in order to ensure comprehensive training on investigative techniques that are specific to the Chicago community and consistent with CPD policies, procedures, and disciplinary rules.

198. Additional training related to misconduct investigations will be provided annually to CPD supervisors responsible for investigating police misconduct not involving police-civilian encounters by the officers they supervise. CPD officers will receive training on identifying and reporting misconduct, accepting complaints, and the consequences of refusing to accept them

199. All CPD supervisors and personnel who may become responsible for investigating misconduct complaints not involving police-civilian interactions will receive a minimum of 8 hours of in-service training annually related to conducting misconduct investigations. CPD will provide 4 hours of in-service training to all supervisors on their obligations when called to a scene by a subordinate to accept a civilian complaint about that subordinate's conduct.

200. The City will provide training to all CPD personnel on CPD's revised or new policies related to misconduct investigations and discipline. This training shall include instruction on:

- a. Identifying and reporting misconduct, the consequences for failing to report misconduct and the consequences for retaliating against a person for reporting misconduct or participating in a misconduct investigation;
- b. How to properly handle complaint intake, including how to provide complaint materials and information and the consequences for failing to take complaints;
- c. The proper categorization of complaints including recognizing allegations of misconduct even when not explicitly identified by the complainant;
- d. Strategies for turning the complaint process into a positive police-civilian interaction;
- e. The consequences for intentionally miscategorizing complaints related to: discriminatory policing based on an individual's demographic category; allegations of unlawful stops, searches and arrests; allegations of interference with constitutionally protected expression; and any allegations of criminal misconduct, including sexual misconduct; and
- f. The consequences for failing to provide information, or failing to make information available.

201. The City will ensure that all CI, BIA, and district investigators¹⁶ are trained on and required to use physical evidence, including but not limited to DNA evidence, GPS data, gunshot residue, and evidence about the scene of a shooting.

202. In each misconduct investigation, BIA and CI shall collect and consider all relevant circumstantial, direct, and physical evidence, including but not limited to: lab results of DNA evidence, lab results of gunshot residue evidence, GPS data, crime scene logs, crime scene measurements including the location of key evidence within the scene, bullet trajectory analysis, and photographs depicting the point of view of civilian witnesses.

203. After receiving their initial training in conducting officer misconduct training, CI, BIA, and district investigators shall receive at least 8 hours in service training annually to maintain and develop investigatory skills and knowledge of current best practices. The training will include a review of interview techniques, including: a) preventing lawyers or other representatives who are representing a witness from conferring with a witness before a question is answered; b) making a record if a witness wishes to take a break; c) inquiring whether there were discussions about the subject matter of the investigation during the break and if so, with whom and what was discussed; d) inquiring whether the witness discussed the subject matter of the investigation with anyone else prior to the interview and if so, with whom, when, and what was discussed; and e) and ensuring that the officer's representative does nothing to interfere with the interview.

204. The City will ensure that all CPD and CI personnel involved in investigating police misconduct be trained on preventing bias, including preventing implicit bias from impacting investigations.

205. The City will ensure that all CPD and CI personnel involved in investigating police misconduct will receive the 8 hours of disability training curriculum set forth in the Training section of this Agreement. Investigators should further be trained on how to identify disability-related misconduct that is not clearly stated in the complaint or that becomes apparent during the investigation; to refrain from asking for disability-related health information that is not necessary for the investigation; and protect confidential disability-related information.

206. The City will ensure that CI, BIA, and district investigators are trained in trauma-informed interview techniques.

207. The City will identify procedure and practice guidelines for responding to sexual assault misconduct complaints with thorough investigation, and trauma-informed, victim-centered, multi-disciplinary practices, including ensuring that all complainants are offered access to social service referrals, and information from a trained sexual assault victim advocate.

208. The City will ensure that investigators who are responsible for investigating domestic violence and sexual assault allegations receive specialized training on these topics. Training shall include: a) how to respond to reports of sexual assault, including cases presenting co-occurring crimes such as domestic violence or stalking; b) strategies that postpone judgment regarding the validity of a case until a thorough investigation is completed; c) methods to minimize further physical and psychological trauma to victims of sexual violence by creating a respectful,

¹⁶ These are supervisors at the district level who are assigned the responsibility to investigate misconduct.

objective response; d) Identification of strategies to keep the investigation focused on the behavior and actions of the suspect; e) The impact of trauma on victims and adjustments to interview practices to allow sensitivity to victims' needs and the dynamics of sexual assault; f) The dynamics of and relevant core scientific concepts related to sexual assault including trauma-related behavior, tonic immobility, and the effects of trauma on memory; g) Guidance on working with vulnerable populations, including homeless people, sex workers, people with disabilities, and LGBT individuals; h) how to respond to non-stranger sexual assault, alcohol and drug-facilitated sexual assault, sexual assault where the victim is incapacitated or otherwise unwilling or unable to clearly describe the assault; i) Report writing and documentation of the investigation undertaken, techniques for investigations of sexual assault, and classification of reports of sexual assault; j) Trauma-informed interviews of individuals reporting sexual assault; k) Taking statements from, interviewing, and interrogating suspects, including training about interrogating suspects in non-stranger or drug/alcohol-facilitated sexual assaults.

209. CPD shall conduct a sexual misconduct incident review at the conclusion of every investigation of a sexual misconduct complaint against an officer or employee concerning conduct against a non-CPD employee, unless the report has been determined to be unfounded. The review shall:

- a. Consider whether the report or investigation indicates a need to change CPD policies or practices to better prevent, detect, or respond to sexual misconduct;
- b. Consider where the incident occurred and the staffing in that area to assess whether physical or other conditions in that area may enable abuse; and
- c. Prepare a report of its findings, including any recommendations for improvement. This report shall be provided to CPD leadership.

210. The City will make public the training materials for CPD and CI personnel who are involved in investigating police misconduct.

3. Opening Investigations

211. The City will ensure that CI makes the initial classifications and assigns investigators in a timely manner.

212. The City will ensure that both CI and BIA open investigations based on any source, including media accounts, anonymous complaints, and referrals from other agencies.¹⁷

¹⁷ Within 120 days of the Effective Date, the Mayor shall introduce an ordinance into City Council that shall exempt the City from compliance with the requirement under the Illinois Uniform Peace Officers' Disciplinary Act, 50 ILCS 725/1, *et seq.*, to obtain a sworn affidavit supporting a police misconduct complaint as a precondition to a full investigation and officer interviews. Within 60 days of the Effective Date, the City shall be prohibited from entering into any collective bargaining agreement (CBA) that requires any such sworn affidavit as a barrier to full and complete police misconduct investigations. If the consent decree does not require the City to investigate complaints unsupported by affidavits, the decree must:

1. Ensure that all CI, BIA, and police district investigators are trained on how to obtain an override of the affidavit requirement, and are encouraged to do so. *See, e.g.*, DOJ Report on CPD, p. 51 ("IPRA

213. CPD will ensure that the complaint intake process is open and accessible for individuals who wish to file complaints about CPD officers' conduct. CPD will ensure that all complaints they receive about CPD officer conduct will be accepted and investigated whether submitted by a CPD employee or a member of the public; whether submitted verbally or in writing; in person, by phone, or online; whether submitted by a complainant, someone acting on the complainant's behalf, or anonymously.¹⁸

214. The CI will perform community outreach and publicize the civilian complaint process, identifying locations that are suitable for community members to file complaints online, via telephone, and in community-based environments free from police presence.

215. The CI will ensure individuals may make complaints in multiple ways, including in person or anonymously, by telephone, online, and through third parties to ensure broad and easy access to its complaint system, and will ensure individuals are aware of this process by performing outreach and sufficiently publicizing the process:

216. The City will make complaint forms widely available at public buildings and locations throughout the City of Chicago, and will make them available to community groups to provide to their members.

217. Complaint forms will be made available, at a minimum, in English and Spanish. The City will comply with the law to make complaints accessible to people who speak other languages (including sign language). The fact that a complainant does not speak, read, or write English, or is deaf or hard of hearing will not be grounds to decline to accept or investigate a complaint.

218. The City will ensure that a free, 24-hour hotline exists for members of the public to make complaints, and will clearly display this information on the City, CPD, and CI websites and other CPD and CI printed materials.

219. The City will ensure that CI continues to operate a free, 24-hour hotline for the public to make complaints, and will clearly display this information on its website and other CPD printed materials.

and BIA should make more use of the override option. IPRA investigators we interviewed relayed that overrides are not encouraged, and no training was provided on how to obtain one. Not surprisingly, this override provision was used only 17 times in the last five years.”)

2. Ensure that each agency that investigates complaints conducts the full preliminary investigation available, including investigating other credible evidence relating to the allegations beyond the complainant.
3. Ensure that each agency that investigates complaints documents its efforts to obtain an override of the affidavit requirement.
4. Require agencies publicly publish the number of complaints in which they sought, and the number of complaints for which they received, overrides.

¹⁸ The City's expired CBAs allow for anonymous complaints of criminal misconduct by a CPD officer, which would include complaints of excessive force, as a finding of excessive force could constitute a criminal assault or battery. In addition, the City shall be prohibited from entering into any future agreement that limits its ability to investigate anonymous complaint of police misconduct.

220. The City will ensure that individuals who make complaints receive a copy of their complaint form upon intake. Each complaint form will prominently display a unique tracking number or barcode. This tracking number or barcode will be linked with any case number ultimately assigned to the complaint, if any. Complainants may use the barcode or tracking number to obtain information about the status of the investigation.

221. The City will ensure that all allegations of officer misconduct are investigated as expeditiously as possible, while maintaining a commitment to rigorous, high quality investigations. The City will ensure that the system to investigate police misconduct sufficiently investigates all complaints fully and in a timely manner so that improper or unlawful practices and conduct are not hidden. If a non-confidential investigation exceeds six months, the CI must notify the complainant (if applicable) and the employee named in the complaint or his or her counsel of the general nature of the complaint, the information giving rise to the investigation, and the reasons for failure to complete the investigation within six months, and the CI must post this information on its website.

222. The City will investigate any information, testimony, or court ruling arising in criminal prosecutions, including in hearings on motions to suppress, or civil lawsuits that indicates potential officer misconduct was not previously fully investigated by BIA or CI.

223. The City shall develop a system under which the Cook County State's Attorney's Office, the Cook County Public Defender's Office, the United States Attorney's Office, and the Federal Defender Office report instances when a court has ruled that an officer violated someone's rights or provided false or incredible testimony or reports, so an investigation may be opened. Any decision by BIA or the CI to decline investigation of such a ruling or allegation shall be documented with a written explanation for the denial.

224. The City will ensure all officers carry complaint forms in their CPD vehicles, and provide complaint forms to individuals upon request. The complaint form, approved by the Monitor, will include information about how to file a complaint electronically instead of through the paper form. CPD will ensure officers will provide their name and badge number upon request.

225. The City shall develop and support a system that allows CPD personnel to file confidential and anonymous complaints and suggestions. The City shall ensure that all CPD personnel can access the system and provide complaints. The City shall ensure that all CPD personnel are informed of this system, have log in information, and understand how it operates to protect their anonymity.

226. CPD will develop a system that allows officers to confidentially and anonymously report potential misconduct by other officers. All CPD members shall be registered for the system. This system will be assessed by the Monitor for effectiveness and the Monitor will make recommendations for changes.

227. The City shall require that every CPD member, regardless of rank, who observes or becomes aware of any allegations of misconduct shall report the incident to a supervisor, to BIA, or to CI for appropriate documentation and investigation. The failure to report an observed or alleged misconduct will be considered misconduct, and will be subject to discipline and/or corrective based on the seriousness of the conduct.

228. The City shall ensure that there are adequate protocols to encourage and protect CPD members who report misconduct, and that every CPD member who observes or becomes aware of any allegations of misconduct by a CPD member shall report the incident to a Supervisor, BIA, or CI, for appropriate documentation and investigation. These measures may include transfers to other units or other measures for protection. Officers who act as whistleblowers shall be eligible for commendations and their willingness to identify misconduct may be considered a positive factor in evaluations and considerations for promotions.¹⁹

229. The City will develop a risk assessment system for litigation that includes litigation in which police officers are defendants.

4. Staffing Investigations

230. The City will ensure that the CI and BIA have sufficient staff to conduct timely and thorough investigations of police misconduct.

231. The City will ensure that its staffing plan takes into consideration the obligation to conduct investigations of settled civil misconduct cases in a timely manner.

232. The CI and BIA will conduct workload assessments every year and publish them on their websites. They will issue public reports showing the caseload, by complaint type, for each investigator.

233. The City shall publicly disclose how it calculates 1% of CPD's budget for the purpose of its statutorily required determination of COPA's budget.²⁰

234. The Monitor will analyze the CI's budget and advise the Parties, the Coalition, and the Court as to whether it affords the CI sufficient resources, including sufficient staff and training to meet the terms of this Agreement.

5. Conducting Investigations

235. Preliminary investigations will begin immediately upon assignment of a complaint, and will include interviewing any witnesses, reviewing reports, and obtaining any video footage.

236. Misconduct investigators shall use impartial, non-leading investigatory techniques.

237. In conducting interviews, investigators will ensure that an officer's representative (lawyer or union representative) does not interfere with the interview and gather information about the witnesses' prior non-privileged discussion of the topic. Investigators shall: a) prevent lawyers or other representatives who are representing a witness from conferring with a witness when a question is pending and before a question is answered; b) make a record if a witness wishes to take

¹⁹ If this language is considered to be in conflict with the current CBAs, within 60 days of the Effective Date, the City shall be prohibited from entering into any agreement that in any way impairs CPD's ability to reward officers who act as whistleblowers. *See* PATF, p. 75 ("The provision that forbids the CPD from rewarding officers who act as whistleblowers should be removed.").

²⁰ On April 17, 2018, the ACLU requested this information via a FOIA request. On April 24, 2018, COPA declined to provide that information and referred the ACLU to a City department.

a break; c) inquire as to whether there were discussions about the subject matter of the investigation during the break and if so with whom and what was discussed; and d) inquire as to whether the witness discussed the subject matter of the investigation with anyone else prior to the interview and if so, with whom, when, and what was discussed.²¹

238. All misconduct cases will continue to be assessed on the basis of a “preponderance of the evidence” standard. The Monitor will conduct a review of cases to ensure the standard is applied.

239. The City shall revise its policies regarding how officers receive notice of the complaint to ensure that the evidence and investigation are not tainted or jeopardized by providing the officer with enough information to create a false report that is consistent with the known facts in the case or by providing information about the complainant and other witnesses that could compromise their safety or otherwise expose them to threats.

240. The City will develop and implement policies to ensure that the officer accused of misconduct receives notice that he or she is under investigation:

- a. Officers under investigation will not receive notice if it would jeopardize the investigation, and will only receive notice prior to being formally interviewed by BIA or the CI;
- b. Such notice will comport with due process and the law, will contain the nature of the investigation, and will not contain any information that may unnecessarily jeopardize the investigation;
- c. When CPD provides notice to officers that they are under investigation, such notice will include provisions prohibiting officers under investigation from speaking to witnesses or complainants, reviewing police reports (other than reports about the incident authored by the officer) or body camera footage, or taking other actions that could jeopardize the investigation, until notified by CPD that they are permitted to do so;
- d. CPD shall require its employees to cooperate with administrative investigations, including appearing for an interview when requested by a BIA or CI investigator, and providing all relevant documents and evidence under the person’s custody and control;
- e. Supervisors shall be notified when an officer under their supervision is summoned as part of a misconduct complaint or internal investigation and shall facilitate the officer’s appearance, absent extraordinary circumstances, documented in writing.

²¹ If this language is considered to be in conflict with the current CBAs, within 60 days of the Effective Date, the City shall be prohibited from entering into any agreement that in any way impairs the City’s ability to conduct interviews as described in this paragraph.

241. The City shall ensure that all officer disciplinary findings that bear on credibility, including Rule 14 findings, are supplied to the Cook County State's Attorney's Office, the United States Attorney's Office, and criminal defendants.

242. Investigators will consider, as part of misconduct investigations, any evidence of an officer having lied or omitted material facts, including evidence of lying or omitting facts during misconduct investigations.

243. Investigators will consider, as a standard part of misconduct investigations, the officer's history of complaints and relevant investigative files.²²

244. Within 60 days of the Effective Date, the City shall be prohibited from entering into an agreement that permits the destruction of records relating to complaints, investigations, and adjudications of police misconduct or use of force.

245. Investigators will interview all accused, involved, and witness officers in person, and separate them from one another. Officers may not respond to allegations with "to/from" memos.

246. CPD will immediately inform the CI when an officer discharges a firearm or taser or engages in other uses of force that fall within the CI's jurisdiction without a complaint first being filed. The Monitor will assess and report on the length of time it takes for CPD to inform the CI of these incidents.

247. The CI will interview the shooting officer as soon as possible and no later than two hours after an incident, barring emergency circumstances, such as the shooting officer's need for emergency medical treatment.

248. CPD will immediately inform the CI of all motor vehicle incidents involving CPD officers that result in death or serious bodily injury. The Monitor will assess and report on the length of time it takes for CPD to inform the CI of such incidents.

249. The City will ensure that officers will not turn off their body-worn or in-car cameras after any use of force that falls within the CI's investigative jurisdiction. CPD policy shall prohibit officers, except in emergency circumstances, from deactivating their cameras, including during public safety interviews, until after they are interviewed by the CI on the scene. For all other reportable uses of force, officers must keep their cameras on until they receive express permission from their supervisor to deactivate them, and such permission shall be recorded on camera prior to deactivation.

250. The City will ensure that all witnesses, including officers, are separated and ordered not to confer about what they witnessed at the scene of any event that is the subject of a misconduct or use of force investigation that is within the CI's jurisdiction.

²² If this language is considered to be in conflict with the current CBAs, within 60 days of the Effective Date, the City shall be prohibited from entering into any agreement that in any way impairs the City from considering an officer's full history of complaints and investigative files.

251. The City shall develop protocols for designating a supervising officer who is responsible for separating all involved and witnessing officers and keeping them at the scene in all use of force incidents under the CI's jurisdiction until BIA or CI personnel arrive. BIA/CI personnel will ensure that the supervising officer has separated all officers who witnessed a use of force incident until they are interviewed in accordance with CPD and CI policy.

252. The City shall ensure that the CI is empowered to compel members of CPD to immediately submit to tests for substances, physical evidence, and DNA, including, but not limited to, breath, blood, urine, and DNA tests, where necessary for an administrative investigation.²³

253. When CPD provides notice to officers that they are under investigation, such notice will include provisions prohibiting officers under investigation from speaking to witnesses or complainants, reviewing police reports (other than reports about the incident authored by the officer), video footage or audio recordings, or taking other actions that could jeopardize the investigation, until notified by CPD that they are permitted to do so.²⁴

254. Officers who confer about the subject of a misconduct investigation outside of the CI investigator's presence shall face significant discipline, up to and including termination.

255. It shall be a condition of employment for every CPD officer to cooperate with the CI in its police misconduct and force investigations. Interfering with a misconduct investigation, or colluding with other individuals to undermine an investigation, including intentionally withholding evidence or information from a misconduct investigator, will be a terminable offense. The City will ensure that officers under investigation do not review any investigative files, reports (except for reports about the incident authored by the officer), or other evidence, including body camera footage, unless publicly released by CPD, or other photographic evidence related to an incident under investigation in which they are the principal or a witness in an investigation, until notified by CPD that they are permitted to do so.

256. The City will terminate officers who manipulate any evidence, including turning off or destroying recordings of body-worn or in-car cameras, in order to hide misconduct of any officer.

257. The City will terminate officers who file charges against victims of police misconduct or witnesses of police misconduct in retaliation for filing a complaint or in order to hide the misconduct, or who take any other retaliatory actions against victims or witnesses of police misconduct.

²³ If this language is considered to be in conflict with the current CBAs, within 60 days of the Effective Date, the City shall be prohibited from entering into an agreement to limit its ability to require that its police officers give prompt statements and submit to tests for substances, physical evidence, or DNA, after a use of force incident or complaint of misconduct.

²⁴ If this language is considered to be in conflict with the current CBAs, within 60 days of the Effective Date, the City shall be prohibited from entering into an agreement to limit its ability to discipline officers who violate CPD Rule 14, which prohibits officers from making a false written or oral report, on the basis of the officer's access to video or audio evidence of an incident.

258. The City will ensure that claims of witness and complainant retaliation are fully investigated.

259. The City will terminate officers who violate Rule 14.

260. The City will establish guidelines that include mitigating and aggravating factors to ensure that discipline and penalties imposed on officers for misconduct violations are applied fairly and consistently.²⁵

261. In each misconduct investigation, investigators shall ensure that they take all reasonable steps to locate and interview all witnesses, including civilian witnesses, and attempt to interview any civilian witness in person at a time and place that is convenient and accessible for the witness.

262. BIA and the districts shall electronically record and transcribe interviews. The CI shall continue to electronically record and transcribe interviews.

263. The CI shall continue to have the power 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. *See* Municipal Code of Chicago, 2-78-120(p) (2016).

264. The City shall maintain a database of officer photographs that is available to the CI, BIA, and the districts for the purpose of officer identification in misconduct investigations. The City will ensure that officer photographs are updated at least every three years.

265. Officers shall inform CPD of any secondary employment, so that CPD may share information with investigators of misconduct and the investigators may determine if there are any conflicts of interest due to the employment that may impair a fair investigation.²⁶

266. The CI shall have the responsibility to conduct regular analyses of citizen complaints against CPD officers, uses of force, lawsuits against CPD officers, judicial findings of unconstitutional or dishonest conduct, and other relevant data to identify individual and groups of officers who may be engaged in a pattern of misconduct, and to initiate confidential disciplinary investigations into the conduct of those identified officers.

267. The CI will conduct Force Analysis Panels with CPD after investigations into shootings and other major uses of force that do not result in sustained findings, in order to determine if they reveal any systemic deficiencies in training, policy, supervision, or equipment; the CI shall present any such deficiencies to CPD during the Force Analysis Panels and publish its recommendations from those Panels on its website within five business days.

6. Terminating Investigations

²⁵ If this language is considered to be in conflict with the current CBAs, within 60 days of the Effective Date, the City shall be prohibited from entering into any agreement that in any way impairs the City from establishing guidelines to ensure consistent application of discipline for similar types of violations.

²⁶ If this language is considered to be in conflict with the current CBAs, within 60 days of the Effective Date, the City shall be prohibited from entering into any agreement that prevents the City from inquiring about secondary employment for the purpose of identifying conflicts.

268. Misconduct investigators shall not prematurely close investigations.

269. The City will ensure that misconduct investigators do not close an investigation for any of the following reasons:

- a. The complainant seeks to withdraw the complaint or is unavailable, unwilling, or unable to cooperate with an investigation; if the complainant is unable or unwilling to provide additional information beyond the initial complaint, the investigation will continue as necessary to resolve the original allegation(s) where possible based on the available evidence and investigatory procedures and techniques;
- b. The complainant pleads or is found guilty of an offense;
- c. The principal investigator resigns or retires; BIA or the CI will continue the investigation and reach a finding, where possible, based on the evidence and investigatory procedures and techniques available;
- d. The complainant disagrees with the officer's rationale for stopping or citing the complainant (such as contending that she was not committing a violation), if the complaint also includes an allegation of officer misconduct in addition to a disagreement with the officer's rationale for the encounter;
- e. The alleged use of force is "de minimus," including complaints about use of handcuffs or force used during arrests; the Monitor will review samples of complaints in these categories to ensure that full investigations are completed.

270. The City will ensure that claims of witness and complainant retaliation are fully investigated.

271. The City shall not close misconduct investigations because a prosecuting agency declines to prosecute, dismisses the criminal case after the initiation of criminal charges, or because the officer is acquitted in the criminal case. Instead, the City will require investigators to conduct a complete investigation and assessment of all relevant evidence.

7. Services for Complainants and Audits of the Investigative Processes

272. In the course of investigating a civilian complaint, the CI, BIA, and the districts will provide supportive services to complainants, including information about the process and outcomes and referrals to outside service providers when needed. (PATF, p. 163). The City shall ensure that all civilian complainants are assigned a complaint-support specialist, who shall provide the above supportive services throughout the complaint and investigative process.

273. In the course of investigating a civilian complaint, the CI, BIA, and the districts will provide periodic written updates to the complainant by mail and by email, if the complainant provides an email address:

- a. Within seven days of receipt of a complaint, the misconduct investigator will send non-anonymous complainants a written notice of receipt. The receipt

shall include the tracking number or barcode originally assigned to the complaint, along with any other case number subsequently assigned, if applicable, and the allegations being investigated. The notice will inform the complainant how he or she may inquire about the status of a complaint. The notice will not contain any language that could reasonably be construed as discouraging participation in the investigation, such as a warning against providing false statements or a deadline by which the complainant must contact the investigator;

- b. Periodic updates will be mailed or emailed to the complainant; the City shall ensure that all BIA and CI investigators communicate with complainants in a professional and respectful manner; investigators who fail to do so shall be subject to discipline, demotion, and/or appropriate corrective action based on the seriousness of the conduct.

274. The City shall establish a feedback process that seeks feedback from civilians who interacted with the CI, BIA, or the districts in the context of a misconduct investigation, including, but not limited to, their overall satisfaction with the process, their ability to access information from BIA, the CI, or the districts, their treatment throughout the investigation, the investigator's sensitivity to their circumstances, and the ease with which they could make a complaint. The feedback process shall also seek suggestions to improve the civilian's experience. BIA and the CI shall publish the results of these surveys annually.

275. The CI will survey and/or conduct outreach to every person who reports that they have been a victim of a crime relating to domestic violence, sexual violence, child abuse and other sensitive crimes to ensure that the officer(s) the victim engaged with were professional, empathic and did not abuse their authority.

276. The City shall establish a testing program designed to assess the civilian complaint intake for accuracy and to ensure that service is provided in a respectful and non-discriminatory manner.

277. CPD and the CI shall produce an annual report on the testing program, with detailed information about methodology, outcome, and planned steps to improve civilian complaint intake based on the assessment.

8. Criminal Misconduct Investigations

278. If at any time during the intake or investigation of a misconduct complaint the investigator finds evidence indicating apparent criminal conduct by any CPD personnel, the investigator shall promptly notify the CI. The CI shall consult with the relevant prosecuting agency or federal law enforcement agency regarding the initiation of a criminal investigation.

279. When an allegation is investigated criminally, BIA and the CI shall continue with the administrative investigation(s) of the allegation.

280. In investigations of police shootings, the CI should interview the shooting officer as soon as possible and no later than two hours after the incident, and should not delay the interview due to a possible criminal investigation. The CI should refrain from performing any criminal

investigative tasks on behalf of the prosecuting agency. The criminal investigation must be conducted by the relevant law enforcement body, independent from the CI investigation.

281. Any criminal investigation of police misconduct by CPD should be led by CPD's BIA or specially designated investigative body. Under no circumstances shall CPD permit any of the suspected officers' supervisors or members of their unit to participate in the criminal investigation.

282. If BIA or the CI refers an investigation of an officer for prosecution and the prosecuting agency declines to prosecute or dismisses the criminal case after the initiation of criminal charges, BIA or the CI shall request an explanation for this decision, which shall be documented in writing and appended to the criminal investigation report.

283. BIA and the CI shall permanently maintain all reports and files concerning criminal investigation of officers.

9. Community-Centered Mediation of Misconduct Complaints

284. The consent decree should replace CPD's existing mediation program for civilian complaints against officers with a new mediation program, provided by a private, experienced mediation services program. This program should be an alternative available for minor allegations of officer misconduct—not for use of force, sexual misconduct, gendered or domestic violence, constitutional violations, or discrimination.

285. Mediation should be voluntary for officers and complainants, and potential participants should be screened for their receptivity to mediation. Because sessions should be kept confidential and not recorded, the program should be accompanied by (a) a limitation on the number of mediations in which any particular officer can participate during a period of time, and (b) public summary data, reporting in aggregate on the number of sessions offered, accepted, and successfully completed.

10. Discipline and the Police Board

286. If the Superintendent requests that members of the Police Board, or anybody that adjudicates officer misconduct in the future,²⁷ overrule the recommendations of the CI, deference shall be given to the CI as the agency who conducted the investigation. The CI's investigative findings shall not be disturbed unless they are clearly erroneous and its disciplinary recommendations may not be overturned unless they constitute an abuse of discretion. If the Superintendent seeks to overturn the CI's recommendations, he or she must provide the CI with written bases for doing so within 30 days of receipt of the recommendations, and the CI shall immediately publish the Superintendent's response on its website.

287. Police Board hearing officers will be evaluated regularly for the quality of their hearings, including but not limited to their application of police board regulations, evidentiary

²⁷ Some groups advocate for the termination of the Police Board. We use the term "Police Board" in this document to refer to whatever body that is responsible for adjudicating police disciplinary cases.

determinations, and decorum. They shall be terminated if the quality of the hearings do not meet these standards.

288. Members of the Board and hearing officers will receive training, including by victims of police misconduct and their families. The training will include an explanation of the rules and standards that they are applying to officers in CPD, including regarding the use of force policy, non-force responses and techniques, impartial policing, and disability and policing.

289. The City will provide yearly evaluations of City attorneys who practice before the Police Board, including through supervisor observations of hearings and an evaluation of skills. If the Police Board learns that attorneys for the City practicing before the Police Board are lacking in trial skills, they may report to the Monitor and the OIG.

290. The Police Board shall post all materials related to its hearings on its websites, including transcripts and videos.

291. The Police Board shall track and publish more detailed case-specific and aggregate data on the cases it reviews.

292. The Monitor shall work with the City to develop procedures by which CPD officers have the right to appeal their terminations or suspensions of over 30 days. The process must be non-duplicative of other CPD officer rights, the judges conducting the hearings must be impartial and unbiased, the hearings and rules must be open to the public, and the judges must publish written rulings that provide the reasons for their decisions.

11. Conflicts of Interest

293. The Monitoring Team shall include an attorney who will examine, report on and develop a plan to address legal and practical conflicts within the Law Department and between City departments that address police misconduct. The City will implement the Monitor's plan. The conflicts that will be addressed include: potential conflicts that arise when the City is defending a lawsuit that is the same subject as a misconduct investigation; when the City represents both the CI and CPD if there is an impasse on discipline; and when the City represents the police officer in a civil suit, including but not limited to when the suit includes claims of punitive damages.

294. The CI shall maintain permanent in-house legal counsel to advise the CI on legal issues, respond to Illinois Freedom of Information Act requests, and represent the CI in legal and administrative proceedings, including those to enforce the CI's subpoenas and to prosecute or defend the CI's investigative, disciplinary, and policy recommendations.

295. Employees working in BIA or the CI will not be assigned to duties that may create any conflict of interest, or appearance of conflict of interest, with their investigatory responsibility.

12. Public Reporting

296. Robust transparency is critical to public accountability, trust, and monitoring of CPD and its oversight entities. To those ends, the CI shall maintain and update a public database of investigations of police misconduct complaints and other disciplinary investigations into CPD

uses of force, as detailed in the Use of Force Data Collection, Analysis, and Reporting section of this Agreement.

297. In addition, the CI and BIA shall publish quarterly reports. The quarterly reports must include a detailed summary of the CI's and BIA's activities for the quarter. The quarterly reports of BIA and the CI will, at a minimum contain the degree of public reporting currently included in COPA's quarterly reports and shall include the following information:

- a. A summary report for each investigation completed during the applicable time frame;
- b. A summary report of each mediation completed during the applicable time frame, including the outcome of the mediation;
- c. Any recommended modifications to CPD policies, procedures, practices, directives, supervision, training, and equipment; the superintendent's written responses to those recommendations; and the status of the implementation of those recommendations;
- d. Any recommended changes to policies, procedures, training, resources, and powers of the CI or BIA, including any recommendations to improve the CI's and BIA's ability to conduct prompt, high quality, thorough, and unbiased investigations that are transparent to the public;
- e. Operational updates with respect to the CI's and BIA's Rules and Regulations, community engagement activities, hiring, training, and transparency efforts;
- f. A detailed statistical analysis, derived from the CI's database, which will help the general public monitor the work of the CI and BIA. Wherever possible, the CI and BIA must aggregate the data by investigative category and by the demographics of the involved civilians and CPD members. The analyses, which include their methodology, shall include, but not be limited to, data related to the following:
 - i. Total number of complaints received;
 - ii. Total number of complaints referred to other oversight entities (*e.g.*, BIA or OIG);
 - iii. Total number and type (*e.g.*, excessive force, false arrest, illegal search, domestic violence, sexual misconduct, sexual assault, coercion, First Amendment, denial of access to counsel, other Fifth Amendment, etc.) of complaint and non-complaint-based investigations opened;
 - iv. Total number and type of investigations completed;
 - v. Total number and type of investigations that remain open;

- vi. Total number and type of notifications that did not result in investigations;
- vii. Total number of investigations terminated without findings broken down by the reasons for termination;
- viii. Total number of referrals to external agencies (e.g., FBI, U.S. Attorney, Cook County State's Attorney, etc.) by agency;
- ix. Total number of affidavit overrides requested, approved, denied, and pending;
- x. Number and type of investigations resolved by mediation;
- xi. The length of time that investigations remained open;
- xii. Investigative outcomes (e.g., sustained, not sustained, etc.) and disciplinary recommendations of completed investigations, aggregated by type of complaint;
- xiii. CPD member disciplinary recommendations aggregated by type of complaint and the demographics of involved civilians and involved CPD members;
- xiv. A comparison of the disciplinary recommendations made by the CI or BIA with those of the Superintendent and the discipline actually imposed, aggregated by type of investigation and the demographics of involved civilians and CPD members;
- xv. Data regarding the racial, ethnic, gender, and geographic demographics of the civilians and CPD members involved in each investigation and any disparities in outcomes;
- xvi. The CI shall also include the following additional statistical analyses in its quarterly reports:
 - 1) Total number of firearm discharges, aggregated by the demographics of involved civilians and CPD members and resulting injuries or fatalities;
 - 2) Total number of non-firearm weapon discharges, aggregated by type of weapon, demographics of involved civilians and CPD members and resulting injuries or fatalities;
 - 3) Unit-by-unit analysis of investigations by type and outcome (including disciplinary and/or training recommendation) of all investigations, including police misconduct investigations conducted by BIA or other City agencies;

- xvii. List of CPD officers with more than ten misconduct complaints filed against them within five years of the reporting period, irrespective of the agency that investigated the complaint, identifying each CPD officer by name, badge number, unit of assignment, gender, race, date of appointment to CPD, and providing the number and types of complaints filed against the officer.

298. If the CI determines additional transparency would serve the public, BIA will also expand its public reports. The City will ensure that BIA's reports are easily located on CPD's website.

299. Annual reports of the CI and BIA must include, at a minimum, similar information and data to those required in the quarterly reports, but for the entire calendar year. In addition, they should include an analysis of complaint trends—concerning police uses of force, police shootings, and the use of tasers and other weapons; a summary of all training undergone by investigative and supervisory personnel; and a summary of activities undertaken related to community input, engagement, and outreach, including the result of the community feedback survey described above. The annual reports must contain the amount of reporting currently provided on the COPA annual report.

300. The CI and BIA shall regularly analyze the types of complaints being received to identify and assess potential problematic patterns and trends. The CI and BIA will produce, at least annually, a public report summarizing complaint trends, including the number and types of complaints received, the disposition of complaints by complaint type, the number and types of dismissed complaints, and the average length of complaint investigations.

301. Both the CI and BIA will track and publicly report, at least annually, aggregate data on complaints made by people with disabilities, including whether the subject of the complaint was the officer's failure to accommodate a disability. Data regarding disability will be collected at two points in the CI and/or BIA process. First, a disability category will be checked in the initial stages of the complaint process if the complainant or victim has voluntarily disclosed that the victim is a person with a disability. Second, regardless of whether the complaint was lodged as disability-related, at the close of the investigation the investigator shall evaluate whether any complaint incident was disability-related, in any part, and, if so, designate it as such. Disability-related complaints will be reviewed by the ADA Compliance Officer as set forth in the ADA Coordinator section of this Agreement. All information related to disability will be confidentially maintained. The CI and BIA will report only aggregate data about complaints of misconduct against people with disabilities.

302. The CI and BIA will include in their yearly reports the total number of investigators, the number of investigators who have received training that year.

303. The City will develop and implement policies that will increase transparency related to City settlements of police misconduct lawsuits, including detailed descriptions of the allegations, and analysis of these lawsuits to identify trends.

304. The City will develop and implement policies for tracking and publicly reporting on misconduct complaints that BIA forwards to the districts to investigate. Such reports will

include regular reporting on complaint patterns and trends, investigation outcomes, and discipline (both recommended and imposed).

D. Access to Counsel in CPD Facilities²⁸

306. CPD shall ensure that arrestees be allowed access to a telephone within one hour of arrest regardless of an arrestee's location, whether at or in a detention or processing facility, hospital, school, transport vehicle, or other location. Cell phones shall be provided for this purpose if a station phone is unavailable. Arrestees must be allowed to make calls to a family member and to an attorney.

307. Before an arrestee is allowed to make these telephone calls, CPD shall ask whether she wants a free attorney and provide the phone numbers for the Cook County Public Defender, First Defense Legal Aid, and any other organization appointed by the Cook County Circuit Court to represent arrestees.

308. At the beginning of any custodial interrogation, along with *Miranda* warnings, CPD shall ask the subject of the interrogation whether she wishes to invoke her right to counsel and provide the phone numbers for the Cook County Public Defender, First Defense Legal Aid, and any other organization appointed by the Cook County Circuit Court to represent arrestees.

309. CPD shall post prominent signs next to each station telephone, and in each interrogation room, processing room, transport vehicle, and lockup, stating:

- a. that arrestees have the right to an attorney;
- b. that arrestees they cannot afford an attorney, one will be appointed for free; and
- c. the phone numbers for the Cook County Public Defender, First Defense Legal Aid, and any other organization appointed by the Cook County Circuit Court to represent arrestees.

310. After an arrestee makes a call to a private attorney or the Cook County Public Defender, First Defense Legal Aid, or any other organization appointed by the Cook County Circuit Court to represent arrestees, no interrogation of that arrestee may occur until an attorney arrives.

311. CPD shall ensure that student attorneys are given access to their clients in police custody as long as they are licensed under Illinois Supreme Court Rule 711 and have completed training offered by First Defense Legal Aid, the Cook County Public Defender, or any other organization appointed by the Cook County Circuit Court to represent arrestees.

²⁸ Source: PATF, Community Relations Working Group Recommendations; Recommendations from First Defense Legal Aid.

312. Upon arrival of an attorney to his or her client's place of detention, CPD shall, within fifteen minutes, provide the client with notice that his or her attorney is present and offer that client the opportunity to immediately meet with the attorney.

313. Upon arrival of an attorney to a client's place of detention and an indication from a client that he or she would like to visit with that attorney, CPD shall cease processing that client and prepare an interview room; the fact that an arrestee is being processed shall not be sufficient justification to delay an arrestee immediate access to her attorney when counsel is physically present and immediately available.

314. Within 30 minutes of arresting a juvenile, CPD shall contact the Cook County Public Defender, First Defense Legal Aid, or another organization appointed by the Cook County Circuit Court to represent arrestees. CPD shall not question a juvenile arrestee until counsel arrives.