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To Chairman Taliaferro, Vice Chair Osterman, and Members of the Public Safety Committee:

Thank you for having us. I am Tobar Richardson, and I serve as the City of Chicago's Deputy Inspector General for Public Safety. With me is the Inspector General, Deborah Witzburg. We appreciate the opportunity to come before you to discuss the recent work of the Office of Inspector General reviewing investigations into allegations that members of the Chicago Police Department have belonged to or associated with extremist organizations.

In recent months, OIG has reviewed investigations conducted by CPD's Bureau of Internal Affairs into two separate matters: one CPD officer accused of associating with the Proud Boys, and another accused of associating with the Oath Keepers.

Before addressing the details of those two cases, I want to highlight the relevant rules of conduct governing CPD members. Specifically, CPD's Rule 2 prohibits "any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department." According to the comment to the rule, Rule 2 "applies to both the professional and private conduct of all members. It prohibits any and all conduct which is contrary to the letter and spirit of Departmental policy or goals or which would reflect adversely upon the Department or its members. It includes not only all unlawful acts by members but also all acts, which although not unlawful in themselves, would degrade or bring disrespect upon the member or the Department, including public and open association with persons of known bad or criminal reputation in the community unless such association is in the performance of police duties. It also includes any action contrary to the stated policy, goals, rules, regulations, orders or directives of the Department."

CPD's Rule 3 prohibits "any failure to promote the Department's efforts to implement its policy or accomplish its goals." Specifically, the Rule "prohibits any omission or failure to act by any member of the Department, whether on or off duty, which act would be required by the stated policy, goals, rules, regulations, orders and directives of the Department."

Regarding Resolution 2022-1411, OIG reviewed an investigation conducted by BIA involving a CPD member alleged to have associated with multiple individuals convicted of a felony or misdemeanor; failed to submit a written report explaining that they were under investigation after being interviewed by the Federal Bureau of Investigation regarding their involvement in the Proud Boys organization; and associated with members of the Proud Boys, an organization BIA described as having been "labeled by the FBI as an anti-Semitic white supremacy organization." BIA sustained the allegation that the CPD member failed to submit a written report explaining that they were under investigation by the FBI and recommended a five-day suspension. BIA reached findings of Not Sustained on the

remaining allegations. In November 2020, OIG recommended that BIA reopen its investigation to address deficiencies materially affecting its outcome.

OIG found that BIA failed to account for all available evidence, additionally noting that the evidence that was available in BIA's investigative file may, in fact, have supported a Sustained finding for the remaining allegations. OIG also noted that it appeared that the CPD member may have made inconsistent statements to the FBI and BIA, and brought discredit upon CPD by virtue of their involvement with the Proud Boys. OIG recommended that BIA reopen the investigation to fully account for all available evidence, and to reconsider its findings as to the original allegations, as well as potential violations of CPD Rules of Conduct 2, 14 (which prohibits making false reports), and 21 (which prohibits the failure to timely report any information concerning a crime).

BIA accepted OIG's recommendation to reopen its investigation, but did not revisit the original allegations, as recommended by OIG. BIA brought five additional allegations against the CPD member. In summary, BIA alleged that the CPD member:

- Failed to report a battery they witnessed to CPD or any other police agency;
- "[M]ade a contradicting statement" during their statement to BIA when asked about their participation in a Proud Boy chat group;
- "[M]ade a false statement" to BIA when asked if they attended a Proud Boy barbeque;
- Brought discredit upon CPD by expressing support for a Proud Boy member's actions in online forums; and
- Brought discredit upon CPD by participating in Proud Boy online forums.

BIA sustained an allegation that the member made "a contradicting statement during [their] audio recorded statement" regarding their participation in a group chat with members of the Proud Boys and made "a false statement" during the course of BIA's investigation when asked if they attended a Proud Boy sponsored barbeque, but did not find that the member violated Rule 14, which prohibits making false reports.

After bringing the additional allegations, BIA resolved the investigation with a mediation agreement, whereby the CPD member agreed not to contest the allegations in exchange for a 120-day suspension.¹ Mediation agreements between a CPD member and the Department are binding, except pursuant to a provision of the applicable collective bargaining agreement which provides that if BIA and the accused CPD member "agree on a penalty less than separation, it is binding on both parties. However, the Superintendent retains the right to seek the separation of an Officer."²

¹ Mediation is a component of CPD's disciplinary system offered to CPD members in designated types of investigations that are likely to result in a sustained finding. CPD members who enter into a mediation agreement waive their right to grieve the findings and recommended discipline.

² "Agreement Between the City of Chicago Department of Police and the Fraternal Order of Police Chicago Lodge No. 7," Section 6.11.

OIG wrote to the Superintendent and recommended the Superintendent review the evidence collected by BIA during its original and reopened investigations. Furthermore, in the interest of consistency and fairness, OIG recommended the Superintendent consider the mediated discipline in light of whether BIA's findings that the CPD member made "false" and "contradictory" statements constitute violations not only of Rule 2, but also of Rule 14, prohibiting the making of false reports. In its communication to the Superintendent, OIG made note of the Superintendent's public position that CPD seeks the separation of members found to have violated Rule 14—to have lied—because "such a violation impairs an officer's ability to testify in criminal cases, to effectuate arrests, hinders an officer from signing affidavits in support of search warrants, and participating in joint federal task forces." The Superintendent has further noted publicly that "Federal and state prosecutors routinely inquire whether an officer has a sustained Rule 14 violation and generally will not call an officer with such a violation to testify in criminal cases because the facts of that violation would be subject to cross-examination and may negatively affect the officer's credibility."

While BIA did not allege that the CPD member violated Rule 14 here, it did sustain findings that they made "a contradicting statement" and "a false statement" during the course of BIA's investigation when asked about their association with the Proud Boys.

The Superintendent did not respond to OIG's further communication. Rather, despite BIA's having found that the accused member had lied, the Superintendent approved the 120-day suspension agreed upon by the CPD member and the Department during the mediation process.

Moving on to the second matter, regarding Resolution 2023-131, OIG reviewed an investigation conducted by BIA involving a CPD member alleged to have been a member of the organization known as the "Oath Keepers," an organization whose website states that its members would "not obey unconstitutional (and thus illegal) and immoral orders." The Oath Keepers has been described in a recent federal grand jury indictment as a "large but loosely organized collection of individuals, some who are associated with militias."³ Since the group was founded in 2009, its members have been involved in a number of violent confrontations with government actors throughout the country dating back to the group's inception.⁴

During the investigation, BIA interviewed the accused CPD member who admitted to being a former member of the Oath Keepers, having joined in 2010 or 2011 and having been a member for three to four years. Nevertheless, BIA reached a finding of Not Sustained on the allegation that the CPD member was a "member of a far-right terror group as documented in a news article."

³ Indictment ¶ 3, United States vs Rhodes, No. 22 Cr 15 (D.D.C. June 22, 2022) (ECF No. 167) (indicting Oath Keepers' founder and associates on charges, including Seditious Conspiracy, in connection with January 6 attack on U.S. Capitol); see also Statement of Offense ¶ 3, United States v. Ulrich, No. 22-cr-15 (D.D.C. April 29, 2022) (ECF No. 117).

⁴ See, e.g., United States v. Bundy, 968 F.3d 1019, 1023-24 (9th Cir. 2020) (describing 2014 incident in which Oath Keepers joined with Nevada rancher Cliven Bundy in an armed standoff with federal law enforcement); United States v. Huff, 630 F. App'x 471, 474-76, 490-91 (6th Cir. 2015) (affirming federal firearms conviction of Oath Keepers member in connection with a 2010 attempt to take over a Tennessee courthouse to perform citizens' arrest on local officials for failure to indict President Obama on fraud and treason charges). See also Center for Strategic & International Studies, "Examining Extremism: The Oath Keepers," accessed January 12, 2023, <https://www.csis.org/blogs/examiningextremism/examining-extremism-oath-keepers>.

OIG found that BIA's analysis failed to address the applicability of CPD's Rules and Regulations and did not answer the question of whether the CPD member's membership in the Oath Keepers itself constitutes a violation of CPD policy. OIG recommended that BIA reopen the investigation to conduct any necessary additional investigation, potentially to include without limitation seeking authorization from the Superintendent to investigate allegations of misconduct occurring more than five years ago if necessary; ordering the CPD member to produce all records and documents regarding their membership of affiliation with the Oath Keepers, including documentation of when they joined and when they ceased being an active member; and reinterviewing the CPD member regarding what, if any, rules, regulations, or policies of CPD they refused to obey because they believed them to be illegal or unconstitutional. OIG further recommended that BIA document an appropriate analysis of whether the CPD member's membership in the Oath Keepers violates any of CPD's Rules and Regulations, including but not limited to Rules 2 and 3.

BIA accepted OIG's recommendation and reopened the investigation. After meeting with OIG to discuss the case and as documented in a supplementary closing report, BIA re-closed the investigation leaving its original findings unchanged. As described in that report, during its meeting with OIG, CPD "mentioned that memberships into organizations in itself is not a rule violation."

In its supplementary closing report, in support of that conclusion and in response to OIG's suggestion that BIA gather more information from the accused member, the BIA investigator wrote that "[w]ithout administrative subpoena power, [BIA] cannot compel [the accused member] to produce records or documents regarding his membership or affiliation." Notably, however, CPD's General Order G08-01, "Complaint and Disciplinary System," obligates all CPD members to "cooperate with any ongoing administrative Log Number investigation," including by "providing all requested documents and evidence under the Department member's custody and control." That is, it would have been plainly within BIA's authority to compel information and documents from the accused member in furtherance of its investigation if it had determined to do so.

Further, despite the accused member's confirming their membership in the Oath Keepers as was publicly reported, the assigned BIA investigator wrote of that public reporting that the "Oath Keepers list came from a hacked source and calls into question the authenticity of the items being compared and the membership dates, membership type, and membership length."

We appreciate CPD's stated commitment to build trust with the communities it serves, and the opportunity to participate in this conversation about how the handling of these and any similar cases might best serve that goal.

Thank you for your time today. We welcome your questions.