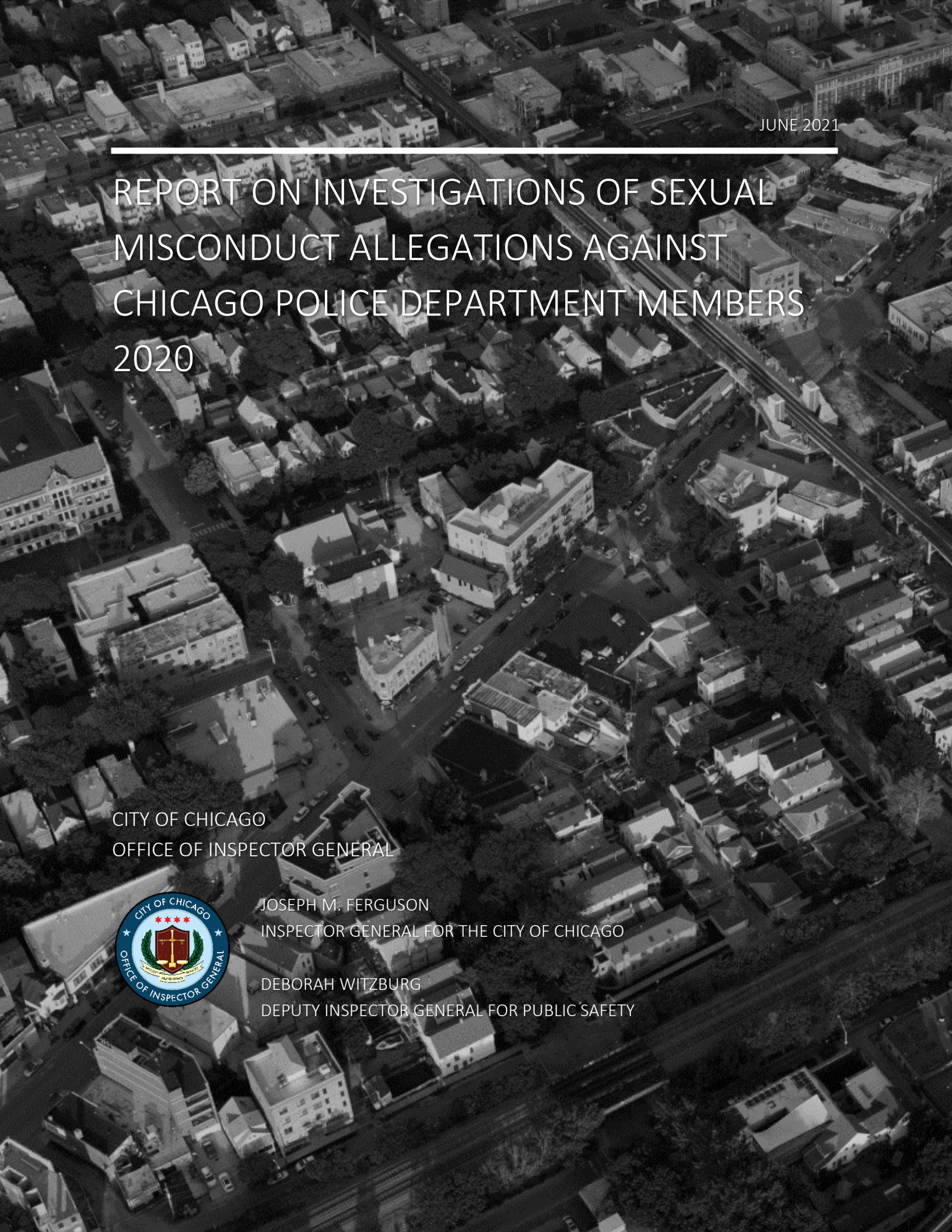

JUNE 2021

REPORT ON INVESTIGATIONS OF SEXUAL MISCONDUCT ALLEGATIONS AGAINST CHICAGO POLICE DEPARTMENT MEMBERS 2020

CITY OF CHICAGO
OFFICE OF INSPECTOR GENERAL

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JUNE 4, 2021

Pursuant to Paragraph 444 of the consent decree entered in *Illinois v. Chicago*, the Office of Inspector General's (OIG) Public Safety section is required to "review and analyze" closed sexual misconduct investigations involving complaints "against a [Chicago Police Department (CPD)] member alleging conduct against a non-CPD member." The consent decree requires OIG to publish an annual report "assessing the quality of sexual misconduct administrative investigations reviewed," "recommending changes in policies and practices to better prevent, detect, or investigate sexual misconduct," and "providing aggregate data on the administrative investigations reviewed" by OIG.

Paragraph 444 of the consent decree requires "the City" to provide OIG with the complete administrative file for each complaint of sexual misconduct against a CPD member alleging conduct against a non-CPD member within ten days of a final disciplinary decision. Neither CPD's Bureau of Internal Affairs (BIA) nor the Civilian Office of Police Accountability (COPA) complied with this provision by directly providing investigative files for sexual misconduct investigations to OIG within ten days of their closure in either 2019 or 2020. The Independent Monitoring Team (IMT) overseeing compliance with the consent decree found that BIA and COPA were not in compliance with their obligations under this paragraph in Independent Monitoring Report 3, issued in April 2020. In the interest of complying with its own obligations under the consent decree, OIG has undertaken to identify any cases which are reportable under Paragraph 444 in the course of its regular, ordinance-mandated review of closed disciplinary investigations.

This report contains statistics on and analysis of all of the cases reportable under Paragraph 444 identified by OIG. As further required by Paragraph 444, OIG made a number of recommendations to improve the investigation and reporting of sexual misconduct allegations by both BIA and COPA. OIG recommended that BIA and COPA refer all closed investigations into allegations of sexual misconduct—as defined by Paragraph 444—to OIG within ten days of a final disciplinary decision as required by the consent decree. Recognizing the disparity in the consent decree between the obligation of BIA and COPA to refer cases which have reached a final disciplinary decision and OIG's obligation to report on *all* cases involving allegations of sexual misconduct, regardless of whether those cases reached a final disciplinary decision, OIG additionally recommended that BIA and COPA refer to OIG any reportable investigations into sexual misconduct which are closed short of reaching findings and which therefore never reach a final disciplinary decision. Further, OIG recommended that BIA and COPA make a standardized designation in their case management systems for all cases which they determine to qualify for reporting under Paragraph 444, in order to facilitate the identification of those cases. Finally, OIG recommended that BIA and COPA document their determinations of whether the alleged sexual

misconduct constitutes criminal misconduct, whether to refer the matter for criminal prosecution, and the outcome of each such referral.

In its response, attached at Appendix B, COPA raised the concern that it does not receive automatic notification when the Superintendent accepts COPA's disciplinary recommendation or when the Police Board issues a final decision, making it difficult to notify OIG within ten days of a final disciplinary decision. COPA committed to working with BIA to create a process to ensure OIG will be notified in such cases. COPA also committed to building a solution into its case management system to ensure sexual misconduct investigations will be categorized consistent with Paragraph 444 and subsequently provided OIG with a list of new case management system category codes specifically related to these classifications. However, COPA declined OIG's recommendation to refer sexual misconduct investigations that are closed short of a final disciplinary decision.

In its response, attached at Appendix C, BIA also committed to working with COPA to create new and more specific category codes to classify sexual misconduct allegations in its case management system. Further, BIA instructed its relevant constituent members to "identify any files they see as they conduct their review of closed files for processing in Command Channel Review which should be provided to PSIG for review." CPD did not address OIG's recommendation that BIA refer cases involving allegations of sexual misconduct that are closed short of findings, though it did detail the efforts BIA has made to identify and refer cases involving sexual misconduct by searching its case management system by certain category codes and keywords.

OIG thanks BIA and COPA for their ongoing cooperation in OIG's review of sexual misconduct investigations pursuant to Paragraph 444 of the consent decree.

APPENDIX A: OIG REPORT CONCERNING PARAGRAPH 444

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VIA ELECTRONIC MAIL

March 29, 2021

Superintendent David O. Brown
Chicago Police Department
3510 South Michigan Avenue
Chicago, Illinois 60653

Sydney Roberts
Chief Administrator
Civilian Office of Police Accountability
1615 West Chicago Avenue, 4th Floor
Chicago, Illinois 60622

Re: Consent Decree Paragraph 444

Dear Superintendent Brown and Chief Administrator Roberts:

Pursuant to Paragraph 444 of the consent decree entered in *Illinois v. Chicago*, the Office of Inspector General's (OIG) Public Safety section is required to "review and analyze" closed sexual misconduct investigations involving complaints "against a [Chicago Police Department (CPD)] member alleging conduct against a non-CPD member." [1] Based on its review of these closed investigations conducted by the Civilian Office of Police Accountability (COPA) and CPD's Bureau of Internal Affairs (BIA), the consent decree requires OIG to publish an annual report "assessing the quality of sexual misconduct administrative investigations reviewed," "recommending changes in policies and practices to better prevent, detect, or investigate sexual misconduct," and "providing aggregate data on the administrative investigations reviewed."[2]

[1] Consent Decree ¶ 444, *State of Ill. v. City of Chi.*, No. 17-cv-6260 (N.D. Ill. Jan. 31, 2019) (Dkt. 703-1) ["consent decree"].
[2] Paragraphs 444 (a)-(c).

In late 2020, the Office of Inspector General's (OIG) Public Safety section submitted a letter to the Independent Monitor, detailing OIG's efforts to comply with Paragraph 444 as related to sexual misconduct investigations that closed in 2019.[3] That letter laid out the issues preventing OIG from being able to conduct the comprehensive analysis contemplated by Paragraph 444, including limited access to the case management system (CMS), the failure of BIA and COPA to refer investigations to OIG as required by the consent decree, and the unreliable nature of incident category codes. Those issues remained an impediment to reviewing sexual misconduct investigations closed in 2020. As BIA and COPA moved away from the Citizen Law Enforcement Analysis and Reporting (CLEAR) system to the new CMS, OIG's access to cases became even more limited until the fourth quarter of 2020.

Paragraph 444 of the consent decree requires "the City" provide OIG with the complete administrative file for each complaint of sexual misconduct against a CPD member alleging conduct against a non-CPD member within ten days of the final disciplinary decision. In 2020, neither BIA) nor COPA complied with this provision by directly providing investigative files for sexual misconduct investigations to OIG within ten days of their closure.

Despite BIA and COPA's failure to comply with the obligations of Paragraph 444, OIG provides the information and analysis contained herein in compliance with its own obligations.

Paragraph 782 of the consent decree defines sexual misconduct as:

- "any behavior by a CPD member that takes advantage of the member's position in law enforcement to misuse authority and power (including force) in order to commit a sexual act, initiate sexual contact with another person, or respond to a perceived sexually motivated cue (from a subtle suggestion to an overt action) from another person;"
- "any sexual communication or behavior by a CPD member that would likely be construed as lewd, lascivious, inappropriate, or conduct unbecoming of a member;"
- "any attempted or completed act by a CPD member of nonconsensual sexual conduct or nonconsensual sexual penetration, as defined in Section 11-0.1 of the Illinois Criminal Code of 2012;"
- "any attempted or completed act by a CPD member of criminal sexual assault, as defined in Sections 11-1.20 through 11-1.40 of the Illinois Criminal Code;"
- "any attempted or completed act by a CPD member of criminal sexual abuse, as defined in Sections 11-1.50 and 11-1.60 of the Illinois Criminal Code of 2012."

Paragraph 743 defines "CPD member" as "any sworn or civilian employee of CPD."

[3] *See* https://igchicago.org/wp-content/uploads/2020/12/Paragraph-444-Sexual-Misconduct-Administrative-Investigations-Report.pdf.

I. IDENTIFICATION OF QUALIFYING INVESTIGATIONS

BIA and COPA investigations are assigned an incident category code, characterized by a numerical code and a brief description, upon intake, with certain categories and subcategories explicitly relating to sexual or gender-based misconduct or harassment (e.g. "Criminal Sexual Assault," "Verbal Abuse – Sexual Orientation," etc.).[4]

However, incidents which rise to the level of sexual misconduct might be contained within investigations associated with any category code, as a category code is assigned based on the first or most serious allegation received at intake by the investigating agency. Of the 29 cases reported in this analysis, 19 of them had category codes which explicitly denoted allegations related to sexual or gender-based misconduct. However, certain incidents may give rise to multiple allegations, resulting in the category code not reflecting the allegation of sexual misconduct. Alternatively, the nature of the allegations may fit the parameters of Paragraph 444 but may not fit into any of the category codes that explicitly denote sexual misconduct. For example, one COPA case categorized as "03B – Civil Rights Violation Improper Search Person Custodial Search" involved allegations that the accused officer groped the complainant while the complainant was being detained. This behavior falls within the definitional parameters of Paragraph 444, but this is not signaled by its category code. Another COPA case involving allegations of sexual assault was categorized as "01Z – Miscellaneous" and four of the BIA cases reviewed by OIG had no category code at all.

Even the category codes that explicitly relate to sexual or gender-based misconduct or harassment are applied inconsistently. For example, four COPA cases which clearly involve allegations of sexual assault were categorized as "01E – Verbal Abuse Unwelcome Sexual Advances or Requests for Favors."

For these reasons, qualifying cases for reporting pursuant to Paragraph 444 cannot be reliably identified by category code where the investigating agency might miscategorize some sexual misconduct cases, and where certain cases never receive a category code indicative of sexual misconduct. As noted in OIG's letter regarding 2019 cases governed by Paragraph 444, the imprecise and inconsistent manner in which disciplinary investigations are classified by "category code" in the case management systems used by BIA and COPA makes the post hoc identification of investigations falling within the definitional parameters of Paragraph 444, and therefore qualifying for reporting, difficult and almost necessarily incomplete; it is not practically feasible to identify qualifying—or even potentially qualifying— investigations by category code. This remains an ongoing issue and continues to underscore the importance of BIA and COPA's reporting of qualifying investigations to OIG upon closure as required by the consent decree, rather than attempting to identify them retrospectively.

[4] Not every case coded with such category codes is necessarily qualifying under Paragraph 444. For example, allegations of sexual harassment by a CPD member against another CPD member would likely be categorized under these codes but do not fall within the definitional parameters of Paragraph 444.

The identification of qualifying investigations is further complicated by the misalignment of obligations pursuant to Paragraph 444. Specifically, the referral obligation imposed on BIA and COPA is narrower than OIG's broader reporting obligation. Paragraph 444 requires the City to notify OIG of qualifying cases "within ten days of the final disciplinary decision," where Paragraph 755 of the consent decree defines "final disciplinary decision" as "the final decision of the Superintendent or his or her designee regarding whether to issue or recommend discipline after review and consideration of the investigative findings and recommendations […]." Paragraph 444 requires OIG to report, however, on investigations of sexual misconduct generally, including cases which were closed with non-finding dispositions and therefore never reach a "final disciplinary decision," as defined. Notably, cases which were concluded after a preliminary investigation, short of reaching investigative findings or recommendations, and which therefore terminate never having reached the process point which triggers BIA and COPA's referral obligation.[5]

Although OIG reviews individual closed disciplinary cases on a regular basis pursuant to Municipal Code of Chicago (MCC) §2-56-230(c), OIG's access to all closed disciplinary cases is incomplete, particularly as it relates to BIA and COPA's new CMS. Given the limitations of post hoc identification of cases and the misalignment of obligations under Paragraph 444, OIG reports herein on all qualifying investigations of which it is aware.

II. BUREAU OF INTERNAL AFFAIRS

During 2020, BIA did not report any qualifying investigations to OIG within 10 days as required. However, BIA provided four lists of cases to OIG, generated on May 29, 2020, August 18, 2020, October 5, 2020, and February 16, 2021, which included cases investigated by both BIA and COPA.[6] Of the 63 total cases referred by BIA, 27 fell within the definitional parameters of Paragraph 444, with 9 qualifying BIA cases and 18 qualifying COPA cases identified by BIA. The remaining 36 cases fell outside of the definitional parameters of Paragraph 444, often involving conduct committed by CPD members against CPD members, neglect of duty in conducting sexual assault investigations, or allegations of other types of discrimination and harassment, unrelated to sexual misconduct altogether. OIG reviewed a total of nine qualifying sexual misconduct investigations conducted by BIA that were closed in 2020.

III. CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

During 2020, COPA did not report any qualifying investigations to OIG within 10 days as required. On March 2, 2021, COPA notified OIG of one qualifying case that reached a final disciplinary decision in 2020. The lists provided by BIA alerted OIG to 18 qualifying COPA cases closed in 2020. During its regular review of closed disciplinary investigations OIG identified one additional qualifying investigation closed in 2020 which was not referred by BIA or COPA. OIG reviewed a

[5] 55% of cases reviewed in 2019 and 83% of cases reviewed in 2020 did not reach a final disciplinary decision.
[6] BIA generated the lists it provided using a combination of category codes and keyword searches in the two case management systems it shares with COPA—AutoCR and CMS—using an approach it discussed with OIG. OIG appreciates BIA's diligence in attempting post hoc identification of all qualifying investigations.

total of 20 qualifying sexual misconduct investigations conducted by COPA that were closed in 2020.

IV. ADMINISTRATIVE INVESTIGATIONS REVIEWED

In an effort to comply as fully as possible with its own reporting obligations pursuant to Paragraph 444 without compliance by BIA and COPA, OIG analyzed all known qualifying investigations.

FIGURE 1: ADMINISTRATIVE INVESTIGATIONS REVIEWED[7]

OIG Case #	Agency	Category Code	Disposition[8]	Sustained Investigative Findings	Recommended Discipline	Referred for Criminal Review	Criminally Prosecuted
20-0346[9]	BIA	08R – Sex Offense Other	Separation	The accused was convicted of a violation of 18 USC §1591(a)(1) Sex Trafficking of Children, resulting in their decertification by the Illinois Law Enforcement Training and Standards Board.	Separation	No[10]	Yes
20-0514	COPA	01Z – Miscellaneous	Administratively closed	N/A	N/A	No	No
20-0796[11]	COPA	05M – Unnecessary Physical Contact on Duty – No Injury	Member resigned	The accused made lewd comments and inappropriately touched a member of the public while on duty.	Separation	No	No

[7] *See* Paragraphs 444(c)(i), (ii), (iii), and (vi).

[8] A misconduct investigation may be disposed of in several different ways. The investigating agency may reach investigative findings or may dispose of an investigation short of a finding. Such non-finding dispositions include closure for lack of a sworn affidavit in support of the allegations. The dispositions listed here and below correspond to the sexual misconduct allegation or allegations in the qualifying investigation; other allegations contained within those investigations may have reached different dispositions not reflected in this table.

[9] The final disciplinary decision in this case was made at the end of 2019. However, the case was not closed until 2020 and OIG was not notified of this caseuntil 2020, so it was not included in OIG's review of 2019 cases.

[10] This BIA investigation was initiated as the result of a criminal prosecution, so there was no need for the matter to be referred.

[11] Pursuant to MCC § 2-56-230(c), OIG also reviewed Case #20-0796 and recommended that it be reopened in order to correct the accused member's disciplinary history and update COPA's disciplinary recommendation to reflect that correction. CPD corrected the error in the disciplinary history and COPA reopened the case to update its disciplinary recommendation to include the member's accurate history.

OIG Case #	Agency	Category Code	Disposition[8]	Sustained Investigative Findings	Recommended Discipline	Referred for Criminal Review	Criminally Prosecuted
20-0966	BIA	None listed	Administratively closed	N/A	N/A	Yes[12]	Yes
20-0970	BIA	None listed	Closed/no affidavit	N/A	N/A	No	No
20-0971	BIA	08R – Sex Offense Other	Administratively Closed	N/A	N/A	No	No
20-1496	BIA	None listed	Closed/no affidavit	N/A	N/A	No	No
20-1497	COPA	01E –Verbal Abuse Unwelcome Sexual Advances or Requests for Sexual Favors	Closed/no affidavit	N/A	N/A	No[13]	No
20-1602	COPA	08C – Crime Misconduct Sexual Misconduct Sexual Abuse Non-aggravated	Closed/no affidavit	N/A	N/A	No	No
20-1604	COPA	03Q – Civil Rights Violation Improper Stop/Seizure Vehicle	Not sustained	N/A	N/A	No	No

[12] The offender was determined not to be a CPD member.

[13] This incident occurred outside of Cook County. The victim did not wish to pursue charges.

OIG Case #	Agency	Category Code	Disposition[8]	Sustained Investigative Findings	Recommended Discipline	Referred for Criminal Review	Criminally Prosecuted
20-1652	COPA	03B – Civil Rights Violation Improper Search Person Custodial Search	Closed/no affidavit	N/A	N/A	No	No
20-1653	COPA	08C – Crime Misconduct Sexual Misconduct Sexual Assault Non-Aggravated	Closed/no affidavit	N/A	N/A	No	No
20-1654	COPA	01E – Verbal Abuse Unwelcome Sexual Advances or Requests for Sexual Favors	Administratively Closed	N/A	N/A	Yes	No[14]
20-1655	COPA	08R – Crime Misconduct Sex Offense Other Criminal	Administratively Closed	N/A	N/A	No	No
20-1656	COPA	08C – Crime Misconduct Sexual	Closed/no affidavit	N/A	N/A	No	No

[14] The statute of limitations had expired by the time this incident was reported to police.

OIG Case #	Agency	Category Code	Disposition[8]	Sustained Investigative Findings	Recommended Discipline	Referred for Criminal Review	Criminally Prosecuted
		Misconduct Sexual Abuse Aggravated					
21-0003	COPA	03G – Civil Rights Violation Improper Search Vehicle Excessive Damage	Closed/no affidavit	N/A	N/A	No	No
21-0005	COPA	08C – Crime Misconduct Sexual Misconduct Criminal Allegation Non-Aggravated	Closed/no affidavit	N/A	N/A	No	No
21-0099	COPA	08C – Crime Misconduct Sexual Misconduct Criminal Allegation Non-Aggravated	Closed/no affidavit	N/A	N/A	No	No
21-0201	COPA	24B – Domestic Incidents Domestic Incident No	Administratively Closed	N/A	N/A	No	No

OIG Case #	Agency	Category Code	Disposition[8]	Sustained Investigative Findings	Recommended Discipline	Referred for Criminal Review	Criminally Prosecuted
		Physical Abuse Harassment					
21-0202	COPA	01E – Verbal Abuse Unwelcome Sexual Advances or Requests for Sexual Favors	Closed/no affidavit	N/A	N/A	No	No
21-0246	COPA	08C – Crime Misconduct Sexual Misconduct Sexual Assault Aggravated	Administratively Terminated	N/A	N/A	No	No
21-0310	BIA	None listed	Administratively Closed	N/A	N/A	No	No
21-0311	COPA	01E – Verbal Abuse Unwelcome Sexual Advances or Requests for Sexual Favors	Closed/no affidavit	N/A	N/A	No	No

OIG Case #	Agency	Category Code	Disposition[8]	Sustained Investigative Findings	Recommended Discipline	Referred for Criminal Review	Criminally Prosecuted
21-0354	BIA	08R – Sex Offense Other	Not sustained	N/A	N/A	No[15]	No
21-0355	BIA	08R – Sex Offense Other	Not sustained	N/A	N/A	No	No
21-0357	COPA	08C – Crime Misconduct Sexual Misconduct Criminal Allegation Non-Aggravated	Closed/no affidavit	N/A	N/A	No	No
21-0358	COPA	01E – Verbal Abuse Unwelcome Sexual Advances or Requests for Sexual Favors	Closed/no affidavit	N/A	N/A	No	No
21-0359	BIA	08R – Crime Misconduct Sex Offense Other Criminal	Administratively Closed	N/A	N/A	No	No
21-0394	COPA	01E – Verbal Abuse Unwelcome	Closed/no affidavit	N/A	N/A	No	No

[15] This case was initiated after an out of state police department notified CPD of criminal allegations against the accused officer. The District Attorney in that jurisdiction declined to prosecute.

OIG Case #	Agency	Category Code	Disposition[8]	Sustained Investigative Findings	Recommended Discipline	Referred for Criminal Review	Criminally Prosecuted
		Sexual Advances or Requests for Sexual Favors					

V. BIA INVESTIGATIONS

Based on information available to OIG, in 2020, BIA closed nine qualifying sexual misconduct investigations. Three of those cases reached a final disciplinary decision, as defined by the consent decree, and six of the nine cases (67%) were closed after a preliminary investigation, short of an investigative finding.[16] Two of those six cases (33%) were closed for lack of a signed complainant affidavit.[17] However, those two cases involved allegations of criminal misconduct, which may not require an affidavit for the investigation to proceed.[18] Of the remaining cases closed after a preliminary investigation:

- Two were closed after BIA discovered that the offender was not, in fact, a CPD member.
- One was closed when BIA determined, after speaking to the complainant, that the alleged conduct did not constitute a violation of CPD directives, rules, or regulations.
- One criminal investigation was closed after BIA determined that the conduct at issue occurred out of state and referred the complaint to the appropriate police agency. This case is discussed in further detail below (p 15).

VI. COPA INVESTIGATIONS

Based on information available to OIG, in 2020, COPA closed 20 qualifying sexual misconduct investigations. Two of those cases reached a final disciplinary decision, as defined by the consent decree and 18 of the 20 cases (90%) were closed after a preliminary investigation, short of an investigative finding. Thirteen of those 18 cases (72%) were closed for lack of a signed complainant affidavit. However, several of those cases involved allegations of criminal misconduct, which may not require an affidavit for the investigation to proceed. Of the remaining cases closed after a preliminary investigation:

- One was closed after COPA was unable to determine whether the accused was, in fact, a CPD member.
- One was closed after COPA determined that the accused was not a CPD member.
- One was closed because the incident occurred before the accused member was hired by CPD.
- One was closed due to insufficient evidence and the age of the allegations.

[16] *See* Paragraph 444(c)(iv). For the purpose of this analysis, OIG considered cases closed after a preliminary investigation to mean cases that were closed short of an investigative finding.
[17] *See* Paragraph 444(c)(v).
[18] Generally, a signed affidavit in support of the allegations is required for a police misconduct investigation to proceed, pursuant to 50 ILCS 725/3.8(b). However, under certain circumstances, allegations of criminal misconductare exempt from this requirement. *See* Agreement Between the City of Chicago Department of Police and the Fraternal Order of Police Chicago Lodge No. 7, Effective July 1, 2012 through June 30, 2017. Section 6.1-D, Appendix L, accessed November 20, 2020. http://directives.chicagopolice.org/contracts/FOP_Contract.pdf. *See also* Agreement Between the City of Chicago and the Policemen's Benevolent & Protective Association of Illinois, Unit 156-Sergeants, Effective July 1, 2016 through June 30, 2022. Section 6.1-E. Accessed March 24, 2021. http://directives.chicagopolice.org/contracts/PBPA_SgtContract.pdf.

- One was closed when the victim was uncooperative with the investigation.

VII. CRIMINAL PROSECUTIONS[19]

Of the 29 cases reviewed, OIG was able to verify that BIA and COPA, combined, referred two cases to the Cook County State's Attorney's Office (CCSAO) to be reviewed for criminal charges. Referral information was not easily discernable from many of the investigative files; the files lackdocumentation of whether a criminal referral was considered but not ultimately pursued by the investigating agency. OIG notes that not every allegation of sexual misconduct captured in this analysis rises to the level of a criminal offense. For example, allegations involving the use of sexually inappropriate language qualify as sexual misconduct for the purposes of Paragraph 444,but those allegations would be unlikely to provide a good faith basis to seek criminal charges.

Statistics regarding criminal referrals and criminal prosecutions for qualifying investigations known to OIG are contained in Figure 2. One case referred for review by a prosecuting agencyresulted in the filing of criminal charges.

FIGURE 2: CRIMINAL REFERRALS AND PROSECUTIONS

Investigating Agency	Cases Referred to CCSAO (% of known qualifying cases)	Cases Criminally Prosecuted (% of known qualifying cases)[20]
BIA	1 (11%)	2 (22%)[21]
COPA	1 (5%)	0 (0%)

VIII. QUALITY ASSESSMENT OF ADMINISTRATIVE INVESTIGATIONS REVIEWS[22]

As noted above, the files for qualifying investigations known to OIG contain incomplete records, which presents difficulties in fully analyzing the relevant closed cases. Nonetheless, OIG offers the following assessment of the overall quality of qualifying sexual misconduct investigations.

Both BIA and COPA investigations into allegations of sexual misconduct lack investigative file documentation of the steps taken and pursued. It was not possible to determine from the investigative file, in many cases, whether there was any referral for criminal prosecution, nor was it readily apparent whether such a referral had even been contemplated by an investigator or a supervisor. As noted above, many of these investigations involve allegations that do not rise to the level of a criminal act. In the investigations in which the allegations might constitute a

[19] *See* Paragraphs 444(c)(ii) and (iii).
[20] Included here are cases in which OIG determined that criminal charges were filed, regardless of the ultimate outcome of the criminal case.
[21] One of these cases was referred by BIA for prosecution. The other BIA case was initiated as a result of federal prosecution.
[22] *See* Paragraph 444(a).

criminal act, however, it was difficult to discern from the investigative files whether there was a simultaneous ongoing criminal investigation.

OIG reviewed a BIA criminal investigation concerning allegations that the accused officer sexually abused the reporting party's sister at a party in Indiana. BIA closed the criminal investigation due to lack of jurisdiction and referenced its corresponding administrative investigation. However, the administrative investigation only dealt with allegations that the accused officer was using illicit drugs and attending "covid parties" in Indiana, but made no mention of the alleged sexual abuse. There was no explanation for this discrepancy in either the administrative or criminal investigative file.

IX. RECOMMENDATIONS[23]

Paragraph 444(b) requires that OIG include in this report recommendations for "changes in policies and practices to better prevent, detect, or investigate sexual misconduct." Accordingly, OIG recommends the following:

1. BIA and COPA should refer all closed investigations into allegations of sexual misconduct, as defined by Paragraph 444, to OIG within ten days of a final disciplinary decision as required by the consent decree.
2. In the interest of completeness and transparency of the public record on allegations of sexual misconduct against CPD members, BIA and COPA should refer investigations into sexual misconduct to OIG within ten days of closing those investigations short of findings, such that there will be no final disciplinary decision, as defined by the consent decree.
3. BIA and COPA should make a standardized designation in their case management systems of all cases which they determine to qualify for reporting under Paragraph 444 of the consent decree.
4. In investigations of allegations of sexual misconduct against CPD members, BIA and COPA should document their determinations of whether the alleged conduct constitutes criminal misconduct, and whether to refer the matter for criminal prosecution. Further, BIA and COPA should document the outcome of each such referral.

X. CONCLUSION

OIG notes that, pursuant to MCC §2-56-230(c), it has made a number of recommendations to "inform and improve" BIA and COPA investigations relevant to some of shortcomings identified here in cases qualifying for reporting under Paragraph 444, specifically including the documentation of investigative decision-making, supervisory review, and the existence or status of any related legal proceedings.[24] These recommendations addressed all misconduct investigations, not only sexual misconduct investigations.

[23] *See* Paragraph 444(b)

[24] See https://igchicago.org/wp-content/uploads/2020/06/Recommendations-to-Improve-COPA-Disciplinary-Investigations-1.pdf and https://igchicago.org/wp-content/uploads/2019/02/Recommendations-to-Inform-and-Improve-CPDs-Internal-Affairs-Investigations.pdf.

Please provide your response to OIG's recommendation in writing by April 28, 2021. OIG looks forward to CPD and COPA's responses, which will be published in accordance with MCC § 2-56-250.

Respectfully,

Deborah Witzburg
Deputy Inspector General for Public SafetyOffice of Inspector General

cc: Joe Ferguson, Inspector General, OIG
Megan Carlson, Chief Investigator for Public Safety, OIGDana O'Malley, General Counsel, CPD
Chief Karen Konow, BIA, CPD
Kevin Connor, General Counsel, COPA
Robin Murphy, Assistant General Counsel, COPA

APPENDIX B: CIVILIAN OFFICE OF POLICE ACCOUNTABILITY RESPONSE

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY
INTEGRITY • TRANSPARENCY • INDEPENDENCE • TIMELINESS

April 27, 2021

Deborah Witzburg
Deputy Inspector General for Public Safety
Office of Inspector General
740 North Sedgwick Street, Suite 200
Chicago, Illinois 60654

Via Electronic Mail

RE: Consent Decree Paragraph 444

Dear Deputy Inspector General Witzburg:

Thank you for your letter dated March 29, 2021 regarding city compliance with Paragraph 444 of the Consent Decree entered in *Illinois v. Chicago*.

As an initial matter, COPA is committed to facilitating Paragraph 444's mandate that the City provide your office with the complete administrative investigative file "[w]ithin ten days of the final disciplinary decision of each complaint of sexual misconduct against a CPD member alleging conduct against a non-CPD member." "Final disciplinary decision" is defined in paragraph 755 as "after the conclusion of the process" described in Section 130(a) of the COPA ordinance. Section 130(a) sets forth the disciplinary review process of sustained cases triggered by the COPA Chief Administrator issuing a disciplinary recommendation.

As reported to you on March 2, 2021, we identified one qualifying COPA case (Log# 1090907) that reached a final disciplinary decision as defined by the Consent Decree in 2020. Please be advised that, with the current Case Management System (CMS), COPA does not receive automatic or immediate notice when the Superintendent accepts my recommendation or when the Police Board issues its final decision. Accordingly, moving forward, we are working with the Bureau of Internal Affairs (BIA) to create a process whereby BIA can notify your office of a qualifying case (whether BIA or COPA) that reaches final disciplinary decision within 10 days of that decision.

Furthermore, we recognize that your office has an annual reporting requirement under Paragraph 444 on data relative to COPA and BIA sexual misconduct investigations. Responsive to Recommendation 3 in your report, we are looking to build a solution within the City's CMS so that all relevant investigations are categorized consistent with paragraph 444. In this way, you will have access to all necessary data to fulfill paragraph 444's reporting requirement. We disagree,

however, with Recommendation 2 in your Report that BIA and COPA should "refer" sexual misconduct investigations to your office that are closed short of final disciplinary decision within 10 days. The 10-day notification requirement of Paragraph 444 applies to cases that reach final disciplinary decision as defined by the Consent Decree, not investigations that are closed before final disciplinary decision.

Further, the targeted system enhancements to CMS, as mentioned, should provide your office timely and accurate information of all sexual misconduct investigations on which your office is required to report. Until this enhancement is developed, COPA will provide your office with all relevant COPA sexual misconduct investigations, including cases closed short of final disciplinary decisions, on a bi-annual basis.

We understand that your office has access to the administrative investigative file through your independent access to CMS or CLEAR. These systems should provide access to all relevant administrative file materials to qualifying cases. Should you be unable to access the complete investigative file of a qualifying case via your independent access to these systems, please notify COPA Supervising Investigator Sharday Jackson, sharday.jackson@chicagocopa.org. We are also happy to make available COPA's Information Systems Director, Adam Pondexter, for consultation and technical assistance if you find your office's access to CMS to be limited in any way.

Finally, full compliance with Consent Decree mandates requires fulsome collaboration and cooperation between all city offices that fall under it. I expect COPA staff to make themselves available to other city staff and units that seek alignment, whether during city calls or reaching out to sister agency colleagues individually. While I understand that your office is properly seeking to fulfill its own specific Consent Decree mandates, I would encourage you to likewise engage with COPA staff directly to collaborate on operational solutions to Consent Decree requirements that we share.

Thank you for your continued efforts in the City's critical Consent Decree reform process.

Respectfully,

Sydney Roberts
Chief Administrator

cc: Joseph Ferguson (OIG)
Megan Carlson (OIG)
Karen Konow (BIA)
Dana O'Malley (CPD)
Kevin Connor (COPA)
Robin Murphy (COPA)

APPENDIX C: CHICAGO POLICE DEPARTMENT, BUREAU OF INTERNAL AFFAIRS RESPONSE

Lori E. Lightfoot
Mayor

Department of Police · City of Chicago
3510 S. Michigan Avenue · Chicago, Illinois 60653

David O. Brown
Superintendent of Police

May 18, 2021

Deborah Witzburg
Deputy Inspector General for Public Safety
Office of Inspector General
740 North Sedgwick Street, Suite 200
Chicago, Illinois 60654

Re: Consent Decree Paragraph 444

Dear Deputy Inspector General Witzburg:

Thank you for your letter dated March 29, 2021 regarding paragraph 444 of the Consent Decree. I appreciate you raising the issues that need to be resolved to ensure compliance with this paragraph. It is of paramount importance that we work together towards ensuring that the Deputy Inspector General for Public Safety (PSIG) receive the complaint files as necessary to ensure a fulsome review of investigations of complaints of sexual misconduct against a CPD member as defined in paragraph 782 of the Consent Decree. Your letter raises three limitations that prevents the timely receipt and review of these files as required by paragraph 444. Each of these issues will be addressed in more detail below, but as a preliminary matter the Department adopts the sentiments raised in COPA's letter dated April 27, 2021 responding to PSIG's correspondence. COPA's response details many of the joint endeavors we have made and continue to make to move towards full compliance.

The first issue preventing PSIG from being able to conduct the comprehensive analysis contemplated by Paragraph 444 was limited access to the case management system (CMS). While this was an issue for a portion of the review period, this issue has since been resolved. As stated in the March 29th correspondence this access was limited until the fourth quarter of 2020. To the extent access issues continue please advise so that we can continue to work through those to ensure full access by PSIG.

The second issue raised, BIAs failure to refer investigations as required by the consent decree is tied into the third issue, the unreliable nature of the category codes. The Department agrees that the category codes, which PSIG raises as the second limiting issue, need to be changed. To that that end, we are engaged in a joint endeavor with COPA to create new and more specific category codes that we hope will ease in the identification of complaints that involve sexual misconduct, as defined by paragraph 782, and move the Department towards further compliance with Paragraph 444. While we continue this important work I think it is important to address what the Department has done to attempt to identify those files that include sexual misconduct regardless of the category code utilized. In August 2020 the Department worked with the PSIG to determine which category codes and search terms would best capture files that fall within Paragraph 444. After discussing this matter the terms and codes were agreed upon between the Department and PSIG. Beginning in September 2020 the Department produced a list of cases culled using the category codes 08C, 08R in Auto CR, 09F or 10S in CRMS and 01E, 08C, 08R, 09F and 10S in CMS. In addition to these category codes the Department also

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used the following key terms to create this list, "sexual misconduct," "sexual assault," "sexual abuse," "sexual harassment," "rape," or "molest". While I understand that this is not the solution to the category codes issue it certainly demonstrates the Department's attempts to use the tools available to use at this juncture to flag and send those files which fall under Paragraph 444 to you as the Deputy Inspector General for Public Safety. We appreciate the opportunity to work with you to create these search terms and identify the relevant codes to create this list. To the extent that you identify additional terms or codes that you believe should be added to this list please let Karen Konow, Chief of the Bureau of Internal Affairs know and the search can be amended to include that information.

As an added measure to ensure that the Department is identifying those files which fall under the definition of sexual misconduct as defined in Paragraph 782, Chief Konow has instructed the advocate section of BIA to identify any files they see as they conduct their review of closed files for processing in Command Channel Review which should be provided to PSIG for review. (See attached Memorandum to Department Advocate from Chief Konow). This process is just beginning but the Department believes it will add another level of scrutiny to ensure that the Department is doing everything possible to ensure compliance while we work on the more global category codes solution.

As the Department continues its progress to compliance with Paragraph 444 we appreciate the partnership with the Office of the Inspector General to resolve issues and find stop-gap measures to create solutions to these issues.

Sincerely,

David O. Brown
Superintendent of Police

BUREAU OF INTERNAL AFFAIRS
Interoffice Memorandum
13 May 2021

TO: Lt. Joseph Bird
Department Advocate
Bureau of Internal Affairs

FROM: Karen Konow
Chief
Bureau of Internal Affairs

COPY

SUBJECT: **REPORTING OBLIGATION TO PSIG REGARDING SEXUAL MISCONDUCT CASES**

Pursuant to Paragraph 444 of the Consent Decree, within ten (10) days of the final disciplinary decision of each complaint of sexual misconduct against a CPD member alleging conduct against a non-CPD member, the City will provide the Deputy PSIG with the complete administrative investigative file, subject to applicable law. [1]

Effective immediately, the Advocate Section will assist in the identification of Log Number investigations that are covered by this reporting obligation. Please ensure that Advocate Section personnel are directed to notify their Supervisor if they are reviewing a Log Number investigation which may constitute a complaint of sexual misconduct. This Supervisory notification should take place prior to the initiation of the Command Channel Review process.

The definition of sexual misconduct means any behavior by a CPD member that takes advantage of the member's position in law enforcement to misuse authority and power (including force) in order to commit a sexual act, initiate sexual contact with another person, or respond to a perceived sexually motivated cue (from a subtle suggestion to an overt action) from another person; any sexual communication or behavior by a CPD member that would likely be construed as lewd, lascivious, inappropriate, or conduct unbecoming of a member; any attempted or completed act by a CPD member of nonconsensual sexual conduct or nonconsensual sexual penetration, as defined in Section 11-0.1 of the Illinois Criminal Code of 2012; any attempted or completed act by a CPD member of criminal sexual assault, as defined in Sections 11-1.20 through 11-1.40 of the Illinois Criminal Code; or any attempted or completed act by a CPD member of criminal sexual abuse, as defined in Sections 11-1.50 and 11-1.60 of the Illinois Criminal Code of 2012.

The Log Number investigations that may fit this criteria will be tracked in order to provide timely notification to the Deputy Inspector General for Public Safety. The Advocate Section will work in coordination with the Intake and Analytical Section regarding a reporting protocol. Additionally, please provide recommendations for improving the CMS system to support this reporting obligation.[2]

Karen Konow
Chief
Bureau of Internal Affairs

KK/cc
cc: All BIA Section Heads

[1] Pursuant to paragraph 755 of the consent decree entered into in *Illinois v. Chicago* "final disciplinary decision" means the final decision of the Superintendent or his or her designee regarding whether to issue or recommend discipline after review and consideration of the investigative findings and recommendations, including after any additional investigation conducted as a result of such review. For COPA investigations, the final disciplinary decision occurs after the conclusion of the process described in Chicago Municipal Code Section 2-78-130(a).

[2] For example, COPA and BIA are working to develop category codes that will assist in the identification of cases involving sexual misconduct.

The City of Chicago Office of Inspector General (OIG) is an independent, nonpartisan oversight agency whose mission is to promote economy, efficiency, effectiveness, and integrity in the administration of programs and operations of City government. OIG achieves this mission through,

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- performance audits of City programs and operations by its Audit and Program Review section;
- inspections, evaluations and reviews of City police and police accountability programs, operations, and policies by its Public Safety section; and
- compliance audit and monitoring of City hiring and human resources by its Compliance section.

From these activities, OIG issues reports of findings and disciplinary and other recommendations to assure that City officials, employees, and vendors are held accountable for violations of laws and policies; to improve the efficiency and cost-effectiveness government operations and further to prevent, identify, expose and eliminate waste, inefficiency, misconduct, fraud, corruption, and abuse of public authority and resources.

OIG's authority to produce reports of its findings and recommendations is established in the City of Chicago Municipal Code §§ 2-56-030(d), -035(c), -110, -230, and -240.

PROJECT TEAM
Megan Carlson, Chief Investigator
Nathaniel Wackman, Associate General Counsel

PUBLIC INQUIRIES
Communications: (773) 478-8417 | communications@igchicago.org

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