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Enforcement of the Chicago Police Department's Rules Requiring Members to Report Misconduct

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Acronyms

ABLE	Active Bystander for Law Enforcement
BIA	Bureau of Internal Affairs
BWC	Body Worn Camera
COPA	Civilian Office of Police Accountability
COPS	Office of Community Oriented Policing Services
CPD	Chicago Police Department
DOJ	U.S. Department of Justice
ETD	Education and Training Division
GAP	Government Accountability Project
IACP	International Association of Chiefs of Police
IMT	Independent Monitoring Team
NYPD	New York City Police Department
OIG	Office of Inspector General
PATF	Police Accountability Task Force
PBPA	Policemen's Benevolent and Protective Association
PERF	Police Executive Research Forum

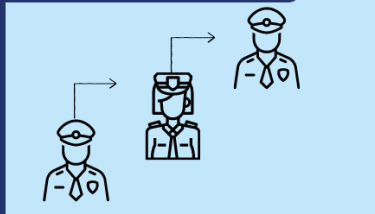
CHICAGO OFFICE OF INSPECTOR GENERAL

Enforcement of CPD's Rules Requiring Members to Report Misconduct

The Consent Decree requires the City to provide multiple ways for members of CPD to report misconduct.

However, current Department guidance states only reporting through a member's chain of command fulfills their obligation to report under CPD's Rules 21 and 22.

Chain of Command



Directly to Investigating Agency (BIA, COPA, OIG)



Anonymously to OIG or COPA



Anonymously via CPD Member Hotline



These structural impediments may put CPD members at risk of retaliation and serve as barriers to reporting misconduct.

CPD - Chicago Police Department
COPA - Civilian Office of Police Accountability
BIA - Bureau of Internal Affairs
OIG - Office of Inspector General

I | Executive Summary

As mandated by the consent decree entered in *Illinois v. Chicago*, the Public Safety section of the City of Chicago Office of Inspector General (OIG) has conducted an inquiry into the enforcement of the Chicago Police Department's (CPD or "the Department") Rules 21 and 22, which prohibit CPD members from "[f]ail[ing] to report promptly to the Department any information concerning any crime or other unlawful action," and from "[f]ail[ing] to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department," respectively.¹ Alleged violations of CPD's Rules and Regulations are usually investigated by CPD's Bureau of Internal Affairs (BIA) and by the Civilian Office of Police Accountability (COPA), both of which come within the scope of OIG's inquiry into the enforcement of CPD's rules imposing a duty to report misconduct.

Requirements which mandate CPD members to report misconduct by other members are in tension with the cultural "code of silence" which City leadership has acknowledged throughout the last decade. In order to overcome reticence to report misconduct and the fear of retaliation, policy experts suggest that members of law enforcement agencies should have multiple ways to report peer misconduct, including anonymously. Although requirements in the consent decree entered in *Illinois v. Chicago* and CPD's directives aim to encourage and improve CPD members' reporting of misconduct, OIG found that CPD members are currently operating under two sets of policies at odds with one another—one that ostensibly allows them to report misconduct in a myriad of ways, and another that invalidates any reporting done outside the Department's chain of command.²

The objectives of OIG's inquiry were to determine whether:

- CPD's current training accurately and thoroughly educates members on expectations of compliance with Rules 21 and 22;
- the methods currently available to Department members to report misconduct align with the purpose of Rules 21 and 22;
- the available complaint data from COPA and BIA demonstrates compliance with and enforcement of Rules 21 and 22; and
- any structural obstacles exist that prevent the effective compliance with or enforcement of Rules 21 and 22.

OIG found the following:

1. CPD informs members of their duty to report misconduct during recruit training but does not formally reinforce this requirement through ongoing training or messaging.
2. Consent decree provisions and CPD directives inhibit effective enforcement of Rules 21 and 22 and contravene best practices by establishing that certain methods of reporting do not satisfy members' duty to report misconduct.
3. COPA and BIA do not consistently pursue violations of Rule 21 and Rule 22, which compromises enforcement of the rules, and inhibits any thorough analysis of failures to report—on the part of individual members or agency-wide.

¹ Chicago Police Department, "Rules and Regulation of the Chicago Police Department," April 16, 2015, accessed April 17, 2023, <http://directives.chicagopolice.org/#directive/public/6412>. Consent Decree, *State of Illinois v. City of Chicago*, No. 17-cv-6260 (N.D. Ill., Jan. 31, 2019).

² Consent Decree, *State of Illinois v. City of Chicago*, No. 17-cv-6260 (N.D. Ill., Jan. 31, 2019).

To improve the enforcement of Rules 21 and 22, OIG recommends the following:

1. CPD should formally incorporate duty to report requirements into its in-service training program and should issue periodic communications to remind members of and refresh them on their duty to report misconduct.
2. CPD should resolve internal inconsistencies in its own policies which permit and protect anonymous reporting mechanisms but render anonymous reports inadequate to satisfy members' duty to report. Similarly, CPD should work with other entities as necessary to address the same inconsistency in the terms of the consent decree, in the interest of ensuring that members may discharge their duty to report without fear of, or exposure to, risks of retaliation.
3. CPD should take all necessary steps to enact policies allowing for trackable, verified, anonymous misconduct complaints made through OIG's CPD Member Hotline—or another, similar system—to satisfy members' reporting obligations.
4. CPD should regularly inform members of all methods available to report misconduct (i.e., contacting BIA, COPA, or OIG; anonymously reporting to COPA or OIG; and anonymously reporting via OIG's CPD Member Hotline) and include all methods within its training materials, directives, and on its CPD Employee Services webpage.
5. COPA and BIA should consistently pursue Rule 21 and/or Rule 22 violations when members fail to report misconduct or criminal activity, along with any other applicable rule violations, and should adopt or update policies and trainings as necessary to do so.

II | Background

CPD's Rules and Regulations state that "the public demands that the integrity of its law enforcement officers be above reproach."³ As such, CPD members are required to report misconduct and criminal activity by other members, and the Department has codified this requirement in its rules and directives. Specifically, Rule 21 prohibits CPD members from "[f]ail[ing] to report promptly to the Department any information concerning any crime or other unlawful action," and Rule 22 prohibits members from "[f]ail[ing] to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department."⁴

Further, CPD's "General Order G08-01: Complaint and Disciplinary System," requires that "all members will comply with the Rules and Regulations of the Chicago Police Department, directives, and orders. Members who fail to comply hinder the effective performance of the Department's functions. This failure to comply will be considered just cause for disciplinary action."⁵ Members are additionally instructed on their duty to report misconduct in "General Order G08-01-02: Complaint Initiation and Log Number Investigation Assignment." This directive requires members who observe misconduct or receive an allegation of misconduct to "immediately notify a supervisory Department member" and also prepare a memorandum to submit to their commanding officer before reporting off duty on the day the member becomes aware of the misconduct.⁶

CPD leadership has spoken publicly to the importance of holding members accountable for misconduct. In 2020, following the murder of George Floyd by a member of the Minneapolis Police Department and the subsequent protests and unrest in Chicago and throughout the country, then-Superintendent David Brown stated:

God help us if we can't find the courage to publicly condemn police misconduct and excessive force... We will thoroughly, thoroughly investigate any and all complaints of misconduct, and we will also hold officers accountable who are complicit of misconduct. It's always the right time to do the right thing. Ethics is doing what's right when no one's looking.⁷

The Department has rules on its books and mechanisms in place for reporting and investigating misconduct complaints that should permit it to live out this principle. These are, however, in tension with and compromised by the existence of a "code of silence" within law enforcement agencies. Former CPD Interim Superintendent Charlie Beck denounced the "code of silence" as "the antithesis of professionalism in policing."⁸ The "code of silence," as defined by the U.S. Department of Justice's (DOJ) Office of Justice Programs, is the reluctance of police officers to report corrupt

³ Chicago Police Department, "Rules and Regulations of the Chicago Police Department," April 16, 2015, accessed March 27, 2023, <https://directives.chicagopolice.org/#directive/public/6412>.

⁴ Chicago Police Department, "Rules and Regulations of the Chicago Police Department."

⁵ Chicago Police Department, "General Order G08-01: Complaint and Disciplinary System," December 31, 2022, accessed March 27, 2023, <http://directives.chicagopolice.org/#directive/public/6362>.

⁶ Chicago Police Department, "General Order G08-01-02: Complaint Initiation and Log Number Investigation Assignment," December 31, 2022, accessed March 27, 2023, <http://directives.chicagopolice.org/#directive/public/6776>.

⁷ Kelly Bauer, "Chicago's New Top Cop Rejects Code of Silence, Says Good Officers Should Hold Bad Cops Accountable," *Block Club Chicago*, June 4, 2020, accessed March 27, 2023, <https://blockclubchicago.org/2020/06/04/david-brown-chicago-police-code-of-silence-copa-cpd-misconduct/>.

⁸ A.D. Quig, "CPD's Beck: 'Of course' there's a code of silence," *Crain's Chicago Business*, January 13, 2020, accessed April 21, 2023, <https://www.chicagobusiness.com/government/cpds-beck-course-theres-code-silence>.

activities by their fellow officers.⁹ The non-profit Government Accountability Project (GAP) describes the “code of silence” or the “blue wall of silence” as:

a social control within police culture that deters reports of misconduct and enforces conformity through fear of retaliation. Often, loyalty to one’s peers supersedes both an officer’s dedication to public service and the rule of law itself. In other words, protection of fellow officers can often be valued over the protection of the public. Broad cultural norms of peer solidarity are continually promoted and sustained through a sense of obligation to comply with this unwritten code of honor.¹⁰

Rules 21 and 22 of CPD’s Rules of Conduct should address such a “code of silence” by requiring members to report misconduct when they see it. These rules, in turn, promote CPD’s values of integrity and its motto to serve and protect.

A | CPD History and the “Code of Silence”

In October 2014, 17-year-old Laquan McDonald was killed by a CPD member who reported they shot McDonald in self-defense as the teenager walked towards them swinging a knife; this narrative was reflected in multiple witnessing members’ reports. However, video footage of the incident, publicly released in 2015, contradicted these accounts. Protests over the next several months demanded action to address the Department’s handling of the incident and its aftermath.¹¹

In response, then-Mayor Rahm Emanuel fired CPD Superintendent Garry McCarthy and announced the creation of the Police Accountability Task Force (PATF), which was charged with reviewing “the system of accountability, oversight and training that is currently in place for Chicago’s police officers.”¹² In a speech to City Council in December 2015, Emanuel directly addressed the culture within CPD that allowed misconduct to go unchecked:

The problem is sometimes referred to as the “thin blue line.” The problem is other times referred to as the “code of silence.” It is this tendency to ignore; it is the tendency to deny; it is the tendency in some cases to cover-up the bad actions of a colleague or colleagues. No officer should be allowed to behave as if they are above the law just because they are responsible for upholding the law. Permitting and protecting even the smallest acts of abuse by a tiny fraction of our officers leads to a culture where extreme acts of abuse are more likely, just like what happened to Laquan McDonald.¹³

⁹ Carl B. Klockars, Sanja Kutnjak Ivkovich, William E. Harver, and Maria R. Haberfeld, “The Measurement of Police Integrity,” *National Institute of Justice Research in Brief*, May 2000, accessed March 27, 2023, <https://www.ojp.gov/pdffiles1/nij/181465.pdf>.

¹⁰ Government Accountability Project, “Breaking the Blue Wall of Silence: The Vital Role of Whistleblower Protections for Law Enforcement Officers,” May 2022, 7, accessed April 5, 2023, https://whistleblower.org/wp-content/uploads/2022/05/NewMayGovAcctProj_Blue-Wall-of-Silence-Report231.pdf.

¹¹ Nausheen Husain, “Laquan McDonald timeline: The shooting, the video, the verdict and the sentencing,” *Chicago Tribune*, January 18, 2019, accessed March 28, 2023, <https://www.chicagotribune.com/news/laquan-mcdonald/ct-graphics-laquan-mcdonald-officers-fired-timeline-htmlstory.html>.

¹² Office of the Mayor, “Mayor Emanuel Announces Task Force on Police Accountability,” December 1, 2015, accessed March 28, 2023, https://www.chicago.gov/city/en/depts/mayor/press_room/press_releases/2015/december/Task-Force-Police.html.

¹³ Chicago City Council, “Special Meeting – Wednesday, December 9, 2015,” 26:30 – 27:25, accessed April 10, 2023, https://chicago.granicus.com/MediaPlayer.php?view_id=2&clip_id=527.

Following McCarthy's firing, Emanuel selected Eddie Johnson, a CPD member with 27 years of experience, to serve as Superintendent. In a March 2016 interview, then-Interim Superintendent Johnson appeared to reinforce precisely the persistent, problematic institutional culture Emanuel described. Johnson stated that he had never seen a fellow CPD member commit misconduct: "I've actually never encountered police misconduct, cause you got to understand, officers that commit misconduct don't do it in front of people that they think are going to hold them accountable for it."¹⁴

In April 2016, PATF released a report which identified several areas of concern as well as recommendations for reform within Chicago's police accountability system. In the report, PATF raised concerns regarding barriers to identifying and reporting police misconduct. The report noted that "there are many ways in which the current system serves to make it more difficult to identify potential misconduct. For years, people have talked about a 'blue code of silence,' an unwritten rule that says that a police officer will not report on another police officer's misdeeds."¹⁵ PATF found that CPD members "have no method to report misconduct confidentially" and thus recommended that CPD "create a hotline for department members, whether civilian or sworn, to lodge complaints, and develop a third-party system for the processing and follow-up of all comments and complaints reported to the hotline."¹⁶ In support of this recommendation, PATF offered that "[a]nonymity and explicit procedures for the protection of a whistleblower from retaliation are important to fostering the trust in the program. Employees often trust third-party hotline services more than internally-operated hotline services, suggesting that a fellow police department colleague (or supervisor) should not be the one answering the phone."¹⁷

Alongside the Police Accountability Task Force, the U.S. DOJ concurrently investigated CPD and the Independent Police Review Authority (IPRA), the predecessor to COPA tasked with investigating police misconduct, "to determine whether the Chicago Police Department is engaging in a pattern or practice of unlawful conduct."¹⁸ The investigative report issued by DOJ in January 2017 reflected many of PATF's same concerns pertaining to the presence of a "code of silence" within CPD and the lack of investigative fortitude in misconduct investigations. The DOJ report acknowledged that "given the code of silence within CPD and a potential fear of retaliation, there are valid reasons a complainant may seek to report police misconduct anonymously, particularly if the complainant is a fellow officer."¹⁹

In 2017, following these reports, the Office of the Illinois Attorney General, on behalf of the State of Illinois, filed suit in federal court against the City of Chicago. The suit aimed to "address allegations that CPD engages in a pattern and practice of civil rights violations and unconstitutional policing

¹⁴ "New Interim Supt. Johnson Says He's Never Witnessed Police Misconduct In 27 Years With CPD," *CBS News Chicago*, March 29, 2016, accessed April 10, 2023, <https://www.cbsnews.com/chicago/news/new-interim-supt-johnson-says-hes-never-witnessed-police-misconduct-in-27-years-with-cpd/>.

¹⁵ Police Accountability Task Force, "Recommendations for Reform: Restoring Trust between the Chicago Police and the Communities they Serve," April 2016, 69, accessed April 5, 2023, https://chicagopatf.org/wp-content/uploads/2016/04/PATF_Final_Report_4_13_16-1.pdf.

¹⁶ Police Accountability Task Force, "Recommendations for Reform," 77.

¹⁷ Police Accountability Task Force, "Recommendations for Reform," 77.

¹⁸ United States Department of Justice Civil Rights Division and United States Attorney's Office Northern District of Illinois, "Investigation of the Chicago Police Department," January 13, 2017, 1, accessed April 5, 2023, <https://www.justice.gov/opa/file/925846/download>.

¹⁹ United States Department of Justice Civil Rights Division and United States Attorney's Office Northern District of Illinois, "Investigation of the Chicago Police Department," January 13, 2017, 51, accessed April 5, 2023, <https://www.justice.gov/opa/file/925846/download>. At the time of the PATF and DOJ investigations, the collective bargaining agreements for sworn CPD members did not allow for investigations of anonymous complaints except in certain circumstances, such as criminal conduct.

and address recommendations and conclusions set forth by the U.S. Department of Justice [within the DOJ Report] and the Police Accountability Task Force convened by Mayor Rahm Emanuel [also known as the PATF Report].”²⁰ In response to this filing and to avoid further litigation, in 2019, the City of Chicago and the State of Illinois entered into a consent decree, a “detailed plan of police reforms that is approved by and enforced by a federal judge.”²¹ The consent decree contains numerous paragraphs that detail operational and procedural mandates for CPD and Chicago’s other public safety and accountability agencies. For example, the consent decree mandates that CPD will provide training to all CPD members on “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 an investigation.”²² It further requires that the City “ensure that a website is made available to CPD members to anonymously report officer misconduct (‘anonymous reporting website’) and...internally disseminate information regarding the anonymous reporting website to all CPD members.”²³

Additionally, the consent decree requires CPD to:

ensure that there are adequate policies and practices in place to encourage and protect CPD members who report potential misconduct by other CPD members. Such policies will provide, at a minimum: (a) that CPD members promptly report any misconduct of which they are aware to a supervisor, (b) that the supervisor document such alleged misconduct and promptly report it to COPA; and (c) that all forms of retaliation, interference, intimidation, and coercion against a CPD member who reports misconduct or cooperates with an investigation are strictly prohibited.²⁴

B | “Code of Silence” Subject Matter Experts

The “code of silence” within CPD is not unique to Chicago; a reticence or unwillingness to report fellow member misconduct has been found within law enforcement agencies throughout the country. Subject matter experts, such as the Police Executive Research Forum (PERF), U.S. Department of Justice Office of Community Oriented Policing Services (COPS), GAP, and the International Association of Chiefs of Police (IACP), have researched the impact of the “code of silence” and provided recommendations for policies and practices that require and encourage law enforcement members to report misconduct. GAP argues that “[l]aw enforcement whistleblowers are one of the most important vehicles for police accountability and reform. This is, in part, because they are often the only witnesses to corruption, waste, fraud, and abuse in their own departments.”²⁵ A joint PERF and COPS report found that the “code of silence” contributes to public distrust, stating that some community members believe “it is hypocritical to ask citizens to snitch on each other when officers will not do the same.”²⁶

These subject matter experts all recommend similar policy structures around reporting misconduct in law enforcement agencies. These recommendations are two-fold in that they advise departments

²⁰ Consent Decree at ¶4.

²¹ Illinois Attorney General - Chicago Police Consent Decree, “Consent Decree Goals,” accessed April 5, 2023, <http://chicagopoliceconsentdecree.org/about/>.

²² Consent Decree at ¶529(a).

²³ Consent Decree at ¶429.

²⁴ Consent Decree at ¶436.

²⁵ Government Accountability Project, “Breaking the Blue Wall of Silence,” 3.

²⁶ Police Executive Research Forum, “The Stop Snitching Phenomenon: Breaking the Code of Silence,” February 2009, 20, accessed April 5, 2023, <https://cops.usdoj.gov/RIC/Publications/cops-p158-pub.pdf>.

to make policies that require members to report misconduct while also providing members with multiple avenues to do so without fear of retaliation.

- PERF and COPS: “Departments must develop systems and a culture that encourage all personnel to report misconduct and hold personnel accountable for failing to report known violations or potential issues...Departments must have ways for personnel to report incidents or concerns about their peers confidentially and anonymously.”²⁷
- IACP: “Employees should be required by agency policy to report misconduct by other employees of the agency. Agencies should facilitate internal reporting practices by providing employees with anonymous or confidential reporting protocols.”²⁸
- GAP: “To restore public trust in law enforcement institutions, a rigorous pursuit of police integrity must provide safe channels for reporting the truth if justice and accountability are going to prevail...[reforms require] independent investigations of [misconduct] disclosures with best practice confidentiality shields and action free from conflicts of interest.”²⁹

The policies of the New York City Police Department (NYPD), for example, reflect features of these best practice standards. NYPD allows its members to report peer misconduct via phone or written report, and members may choose to identify themselves or remain anonymous. NYPD has a switchboard within the Command Center of its Internal Affairs Bureau, which takes phone calls regarding potential misconduct 24 hours a day. If a member decides to report anonymously, they can forward their detailed report to the Deputy Commissioner of Internal Affairs and receive a Confidential Identification Number from the Command Center investigator to prove that they have filed a report. NYPD’s policy notes that a service member having information regarding misconduct has the responsibility to report such information directly to the Internal Affairs Bureau Command Center. The policy states that notifying Internal Affairs satisfies the member’s affirmative duty to report and further clarifies that obtaining a Confidential Identification Number from the Command Center investigator fulfills the member’s reporting responsibility.

C | Investigations into Misconduct Allegations Against CPD Members

Within Chicago’s police accountability system, investigations into alleged misconduct by CPD members are usually conducted by either COPA or BIA.³⁰ COPA is a civilian City agency that is independent of CPD and acts as a clearinghouse for complaints filed against CPD members. COPA personnel review all complaints and determine, based on the subject matter of the complaint, whether a complaint falls into its own investigative jurisdiction and should therefore be retained for investigation, or should be referred to BIA for investigation. BIA is an internal CPD unit devoted to

²⁷ Police Executive Research Forum, “Critical Response Technical Assessment Review: Police Accountability—Findings and National Implications of an Assessment of the San Diego Police Department,” 2015, 38, accessed April 5, 2023, <https://cops.usdoj.gov/RIC/Publications/cops-w0756-pub.pdf>.

²⁸ International Association of Chiefs of Police, “Investigation of Allegations of Employee Misconduct,” April 2019, 6, accessed April 5, 2023, <https://www.theiacp.org/sites/default/files/2020-08/Investigation%20of%20Allegations%20of%20Employee%20Misconduct%20-%20FULL.pdf>.

²⁹ Government Accountability Project, “Breaking the Blue Wall of Silence,” 3.

³⁰ Additionally, the Office of Inspector General (OIG) may also investigate allegations of misconduct. In keeping with the objectivity and independence standards governing OIG’s work, OIG describes but does not evaluate its own role in investigating misconduct allegations and recommending discipline in Sustained cases. City of Chicago, Municipal Code, §2-56-030(b), accessed April 12, 2023, https://codelibrary.amlegal.com/codes/chicago/latest/chicago_il/0-0-0-2599840#JD_2-56-030.

investigating allegations of misconduct by sworn and nonsworn CPD members; the unit is responsible for “coordinat[ing] and exercis[ing] supervision over disciplinary matters involving alleged or suspected violations of statutes, ordinances, and Department rules and directives,” and is led by a Chief who reports directly to the Superintendent of Police.³¹

The disciplinary process for CPD members begins with the initiation of an investigation into possible misconduct. Typically, investigations begin following a complaint alleging misconduct filed against CPD members, which may include violations of CPD’s Rules and Regulations, Department directives, etc. These complaints may be filed by anyone, including members of the public, City officials, or City employees, including CPD members. Previous collective bargaining agreements between the City and sworn CPD members did not allow for investigations of anonymous complaints except in certain circumstances, such as criminal conduct. All misconduct complaints filed against members had to include a sworn affidavit in order for an investigation to proceed unless an override was requested by either COPA or BIA leadership. The current collective bargaining agreement for the Fraternal Order of Police, which applies to all non-supervisory CPD members, contains provisions that allow complaints to be investigated without sworn complainant affidavits and provides a mechanism for the investigation of anonymous complaints.³² Sergeants, Lieutenants, and Captains are represented by the Policemen’s Benevolent and Protective Association of Illinois Unit 156 (PBPA). Each of these three supervisory ranks has its own collective bargaining agreement, and each agreement currently requires sworn affidavits or affidavit overrides in order for alleged misconduct by supervisors to be fully investigated. However, in June 2020, the Mayor’s Office announced that the City had successfully negotiated with the PBPA to allow investigations to proceed for anonymous misconduct complaints involving supervisors.³³

After a complaint is received, the investigating agency gathers evidence to reach an appropriate finding.³⁴ When BIA or COPA sustain an allegation, the agency recommends what it believes to be appropriate discipline, taking into account a member’s past complimentary and disciplinary history.³⁵

³¹ Chicago Police Department, “General Order G01-02-01 Organization and Functions of the Office of the Superintendent,” May 10, 2018, accessed April 12, 2023, <http://directives.chicagopolice.org/#directive/public/6611>. BIA conducts both administrative and criminal investigations. COPA conducts administrative investigations and may refer potentially criminal matters to the appropriate investigating or prosecuting authority.

³² City of Chicago, “Agreement Between the City of Chicago department of Police and the Fraternal Order of Police Chicago Lodge No. 7,” Chicago: City of Chicago, 2021, accessed May 25, 2023, https://igchicago.org/wp-content/uploads/2022/03/Combined-2021-Redline-FOP-Contract-Amendments_2012-2017-Contract.pdf.

³³ Office of the Mayor, “Mayor Lightfoot Announces Historic Accountability and Transparency Reforms Won in Police Union Contracts,” June 26, 2020, accessed May 25, 2023, https://www.chicago.gov/city/en/depts/mayor/press_room/press_releases/2020/june/PoliceUnionContracts.html.

³⁴ Investigating agencies “sustain” findings when they determine the allegation of misconduct is supported by a preponderance of the evidence. A “preponderance of the evidence” means that it is more likely than not that the allegation is true. Agencies may also determine that allegations are: “not sustained,” when there is insufficient evidence to either prove or disprove the allegation; “exonerated,” when the incident occurred but the actions of the accused were lawful and proper; or “unfounded,” when the allegation is false or not factual. Depending on the circumstances, BIA or COPA may also close certain investigations without reaching a finding on allegations.

³⁵ For more details on Chicago’s disciplinary system, see OIG’s report on fairness and consistency in the discipline process and a series of flowcharts outlining the process from complaint through implementation. City of Chicago Office of Inspector General, “Fairness and Consistency in the Disciplinary Process for Chicago Police Department Members,” June 16, 2022, accessed April 10, 2023, <https://igchicago.org/wp-content/uploads/2022/06/Fairness-and-Consistency-in-the-Disciplinary-Process-for-Chicago-Police-Department-Members-Copy.pdf>. City of Chicago Office of Inspector General, “A Guide to the Disciplinary Process for Chicago Police Department Members,” accessed April 10, 2023, <https://igchicago.org/about-the-office/our-office/public-safety-section/cpd-disciplinary-process-overview/>.

The consent decree requires that:

the City, CPD, and COPA will ensure that all complaints of misconduct, whether from internal or external sources, are thoroughly, fairly, timely, and efficiently investigated in accordance with this Agreement; that all investigative findings are supported by the appropriate standard of proof and documented in writing; and that all CPD members who commit misconduct are held accountable pursuant to a disciplinary system that is fair, timely and consistent, and provides due process.³⁶

Further, the consent decree states that “[w]hen an allegation of misconduct contains multiple separate potential policy violations, all applicable violations will be identified and investigated.”³⁷ Paragraph 516 requires that, within a CPD member’s individual disciplinary history, each sustained allegation they receive “will be considered for the purposes of recommending discipline for a subsequent sustained finding for a period of up to five years.”³⁸

³⁶ Consent Decree at ¶423.

³⁷ Consent Decree at ¶503.

³⁸ Consent Decree at ¶516.

III | Objectives, Scope, and Methodology

A | Objectives

The objectives of the OIG inquiry were to determine whether:

- CPD's current training accurately and thoroughly educates members on expectations of compliance with Rules 21 and 22;
- the methods currently available to Department members to report misconduct align with the purpose of Rules 21 and 22;
- the available complaint data from COPA and BIA demonstrates compliance with and enforcement of Rules 21 and 22; and
- any structural obstacles exist that prevent the effective compliance with or enforcement of Rules 21 and 22.

B | Scope

The scope of OIG's inquiry includes the policies and practices of CPD and COPA as relevant to the enforcement of Rules 21 and 22. OIG does not, in this inquiry, offer any determination as to whether individual investigations should have resulted in Sustained Rule 21 or 22 allegations. Additionally, as OIG conducts misconduct investigations which could include alleging and sustaining Rule 21 or 22 violations, in keeping with the objectivity and independence standards governing OIG's work, OIG describes but does not evaluate its own role in receiving and investigating misconduct allegations and recommending discipline in Sustained cases.

C | Methodology

To determine whether and/or how CPD members are educated on their duty to report misconduct, OIG:

- interviewed nine police officers, three sergeants, and personnel from CPD's Education and Training Division (ETD);
- requested internal communications from the Department to its members;
- reviewed materials from trainings given by CPD; and
- conducted in-person observations of CPD's Use of Force and Active Bystander for Law Enforcement (ABLE) trainings.

OIG selected 12 sworn CPD members for interviews using a stratified random sampling method. OIG defined rank and length of experience within CPD as sampling groups. Three Sergeants were randomly chosen from among all CPD Sergeants. Three non-supervisory members were selected from each of the following categories: members with less than one year of experience or currently in basic recruit training, members with between five and 10 years of experience, and members with more than 20 years of experience.

To determine how COPA and BIA identify potential violations of Rules 21 and 22 and investigate those allegations, OIG analyzed complaint record data provided by the respective investigating agencies for Sustained Rules 21 and 22 violations from cases closed between May 1, 2019, and May 1, 2022; conducted interviews with investigators and leadership from both agencies; and

reviewed policies, agency rules and regulations, and related material pertaining to these processes.³⁹

To understand the methods currently available to Department members to report misconduct, determine whether those methods align with the purpose of Rules 21 and 22, and learn what, if any, structural obstacles exist that hinder the enforcement of Rules 21 and 22, OIG reviewed: CPD directives pertaining to reporting and investigating misconduct and the prohibition of retaliation; complaint data from the CPD Member Hotline from its inception in 2017 through February 2023; and paragraphs from the consent decree entered in *Illinois v. Chicago* related to complaint and disciplinary procedures, training members on identifying and reporting misconduct, anonymous reporting requirements, and protecting Department members from retaliation.

D | Standards

OIG conducted this inquiry in accordance with the Quality Standards for Inspections, Evaluations, and Reviews by Offices of Inspector General found in the Association of Inspectors General's *Principles and Standards for Offices of Inspector General* (i.e., "The Green Book").

E | Authority and Role

The authority to perform this inquiry is established in the City of Chicago Municipal Code §§ 2-56-030 and -230, which confer on OIG the power and duty to review the programs of City government in order to identify any inefficiencies, waste, and potential for misconduct, and to promote economy, efficiency, effectiveness, and integrity in the administration of City programs and operations, and, specifically, to review the operations of CPD and Chicago's police accountability agencies. The role of OIG is to review City operations and make recommendations for improvement. City management is responsible for establishing and maintaining processes to ensure that City programs operate economically, efficiently, effectively, and with integrity.

This report is responsive to Paragraph 558(c) of the consent decree entered in *Illinois v. Chicago*.

³⁹ OIG requested complaint record data from BIA and COPA in May 2022 and selected May 1, 2019 as the start date in order to review three full years of data.

IV | Findings and Recommendations

Finding 1: CPD informs members of their duty to report misconduct during recruit training, but does not formally reinforce this requirement through ongoing training or messaging.

Upon being hired by CPD, recruits receive over 900 hours of basic recruit training (colloquially known as “the Academy”), which is facilitated by CPD’s ETD and intended to “develop policing skills, enhance leadership abilities, and promote a solid ethical foundation to all department members.”⁴⁰ “Special Order S11-10-01: Recruit Training” states this training is provided “to develop, maintain, and enhance law enforcement knowledge and skills so that Department members will perform their jobs...in accordance with the law, Department policy, and best practices.”⁴¹

After their time at the Academy, Department members also receive in-service training each year which is intended to promote CPD’s values of “professionalism, ethics, integrity, community service, and leadership.”⁴²

A | Training in the Academy largely informs recruits of their duty to report

According to ETD leadership, recruits receive training on reporting rule violations and misconduct immediately upon entering the Academy. In an interview with OIG, ETD personnel stated that instructors try to enforce this requirement early in the training process so that recruits understand the Rules and Regulations and the procedures that must be followed. ETD advised OIG that the first 30 to 45 minutes of each day, known as HRI or Homeroom Instruction, are used to go over basic information such as the Department’s core values and CPD’s Rules and Regulations.

At OIG’s request, CPD provided training materials used to educate members regarding their duty to report misconduct under Rules 21 and 22. A lesson plan and presentation, taught by BIA and last updated in 2017, demonstrate that instructors review all 54 Rules of Conduct with recruits during a three-hour block of instruction. The Department also provided PowerPoint presentations created and taught by COPA and OIG. These presentations provide CPD recruits with information on the

⁴⁰ Chicago Police Department, “Education and Training Division (ETD),” accessed April 12, 2023, <https://home.chicagopolice.org/about/specialized-units/education-and-training-division-etc/>.

⁴¹ Chicago Police Department, “Special Order S11-10-01: Recruit Training,” February 28, 2022, accessed April 12, 2023, <https://directives.chicagopolice.org/#directive/public/6583>.

⁴² Chicago Police Department, “Special Order S11-10-03: In-Service Training,” December 31, 2022, accessed April 12, 2023, <https://directives.chicagopolice.org/#directive/public/6904>.

agencies' general functions and police misconduct investigations within Chicago. OIG's presentation additionally notes that CPD members are required to report misconduct in order to comply with CPD's Rules and Regulations as well as the Municipal Code of Chicago's Ethics Ordinance.⁴³

OIG conducted interviews with 12 CPD members who also confirmed that members learn of their duty to report misconduct during recruit training. In these interviews, many members told OIG that they learned the Department rules, including Rules 21 and 22, while at the Academy. All interviewees confirmed they were aware of their duty to report misconduct. However, according to most interviewees, although CPD members generally know that they have a duty to report misconduct and criminal actions, they may not recall the details of the applicable rules.

B | CPD does not adequately reinforce duty to report requirements with its members after basic recruit training

When asked about post-Academy training on reporting misconduct, ETD pointed to both Use of Force training and ABLE training. OIG observed both and found that neither focuses on reporting misconduct. Instructors in the eight-hour Use of Force course briefly mentioned the duty to report but never specifically discussed Rules 21 or 22. Further, OIG found that the requirement to report misconduct was often conflated with a duty to intervene in misconduct being committed by a peer member.⁴⁴ When CPD members interviewed by OIG were asked whether they received any in-service training on Rules 21 and 22, several of them pointed to the ABLE training as a recent example of these rules being reinforced. OIG observed the ABLE training and found that it focuses exclusively on members' duty to intervene. In fact, OIG observed the instructors specifically state that ABLE training is not about reporting misconduct. ABLE instead focuses on encouraging members to intervene when they witness misconduct, but it does not address steps members would be required to take following that intervention, which includes fulfilling their requirement to report misconduct.

In addition to the lack of post-Academy training on the duty to report misconduct, OIG found that CPD does not take steps to remind members of or refresh them on the requirements of Rules 21 and 22. OIG asked the Department for any and all bulletins, internal messages, or internal communications distributed to CPD members regarding their duty to report misconduct since January 2019. CPD responded with documents from BIA, the Bureau of Patrol, and the Office of the First Deputy Superintendent. BIA provided an administrative message sent to all units in April 2019 which reminded members of their duty to report misconduct. The Bureau of Patrol and Office of the First Deputy Superintendent did not find any documents that were responsive to OIG's request.⁴⁵

⁴³ This presentation reviews the multiple ways members may report misconduct to OIG, and specifically addresses OIG's anonymous-but-verified CPD Member Hotline, general online complaint form, email address, physical address, and phone number.

⁴⁴ "General Order G03-02: De-Escalation, Response to Resistance, and Use of Force" sets out a CPD member's duty to intervene when they observe an excessive or improper use of force. The directive separately requires the CPD member to report that use of force. Chicago Police Department, "General Order G03-02: De-Escalation, Response to Resistance, and Use of Force," April 15, 2021, accessed April 13, 2023, <https://directives.chicagopolice.org/#directive/public/6214>.

⁴⁵ The Independent Monitoring Team (IMT), the entity tasked with assessing compliance with the consent decree, reported that, "CPD also provided the IMT with a 2019 memorandum that documents the CPD's 2019 efforts to distribute to CPD members a 'CPD Member Hotline Brochure' and a CPD Hotline streaming video. In addition, the CPD provided

| Recommendations

1. CPD should formally incorporate duty to report requirements into its in-service training program and should issue periodic communications to remind members of and refresh them on their duty to report misconduct.

| Management Response

1. *CPD agrees that this should be included. BIA is developing a quarterly newsletter to coincide with its Quarterly report and will include a reminder of Rule 21 in this quarterly newsletter.*

the IMT with an electronic information sheet that contained a message from the CPD Superintendent regarding the OIG's Anonymous Reporting Website. That message reminds employees about Rules 21 and 22 and about their duty to report misconduct." CPD did not provide these materials to OIG in response to its request for any and all bulletins, internal messages, or internal communications distributed to CPD members regarding their duty to report misconduct. Independent Monitoring Team, "Independent Monitoring Report 3," March 30, 2021, 680, accessed May 12, 2023, https://cpdmonitoringteam.com/wp-content/uploads/2021/04/2021_03_30-Independent-Monitoring-Report-3-amended-filed.pdf.

Finding 2: Consent decree provisions and CPD directives inhibit effective enforcement of Rules 21 and 22 and contravene best practices by establishing that certain methods of reporting do not satisfy members' duty to report misconduct.

There are various stated policy positions across Chicago's police accountability system about the importance of enforcing CPD members' duty to report and making available multiple reporting options. Nonetheless, not all methods of reporting currently fulfill CPD members' duty to report requirements under Rules 21 and 22. This condition has resulted in CPD members currently operating under two sets of policies at odds with one another—one that ostensibly allows them to report misconduct in a myriad of ways, and another that invalidates any reporting done outside the Department's chain of command. Under these circumstances, Rules 21 and 22 cannot be fully and effectively enforced, and Chicago fails to meet best practices.

CPD wrote to OIG that “[Rules 21 and 22] serve to ensure and enhance the Chicago Police Department’s commitment to a robust culture of accountability across all ranks. Holding Department members accountable for violations of law and policy ensures legitimacy and community confidence.” A member of COPA’s leadership team similarly stated, “The required reporting under [R]ules 21 and 22 is a measure of police integrity and accountability.” One of the “guiding principles” for “Accountability and Transparency” within the consent decree is that, “In order to foster public trust and receive critically important community feedback, and promote confidence in CPD, the City and CPD will ensure the process for submitting and pursuing complaints that allege violations of CPD policy or the law by CPD members is open and accessible for all individuals who wish to file complaints.”⁴⁶ The consent decree further states that in order to receive these necessary complaints, individuals must be “allowed to submit complaints in multiple ways.”⁴⁷ These consent decree mandates apply to all individuals who want to report misconduct, including CPD members. The consent decree additionally mandates that the Department will provide training to all CPD members on “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 an investigation.”⁴⁸

⁴⁶ Consent Decree at ¶421.

⁴⁷ Consent Decree at ¶425.

⁴⁸ Consent Decree at ¶529(a).

A | There are multiple ways for CPD members to report misconduct

CPD members, by virtue of their overlapping statuses as Department members and individuals within the City of Chicago, have access to multiple methods to report misconduct. These methods include reporting misconduct to a supervisor; contacting BIA, COPA, or OIG; anonymously reporting to COPA or OIG; and filing an anonymous complaint with OIG through the CPD Member Hotline Portal.

1 | CPD members can report through their chain of command

Despite the availability of these various avenues for reporting, CPD directives require members to report most misconduct through the Department's chain of command. CPD's "General Order G08-01: Complaint and Disciplinary System" directs members to report misconduct through a supervisory Department member.⁴⁹ "General Order G08-01-02: Complaint Initiation and Log Number Investigation Assignment" further states, "When a nonsupervisory Department member observes a Department member engaged in misconduct, knows of an allegation of misconduct, receives an allegation of misconduct, or becomes aware that a member of the public wants to submit a complaint, the member will...immediately notify a supervisory Department member."⁵⁰

Additionally, Paragraph 436(a) of the consent decree explicitly requires the Department to implement policies requiring CPD members to "promptly report any misconduct of which they are aware to a supervisor."⁵¹

In interviews with CPD members, OIG found that most were uncertain about ways to report misconduct outside of CPD's chain of command. Many interviewees stated they would report misconduct to their supervisor because they had to follow the chain of command. Others specifically referenced Department policy which requires reporting to an immediate supervisor and documenting this action in a memorandum before the end of their shift.

2 | CPD members can report directly to CPD's Bureau of Internal Affairs, the Civilian Office of Police Accountability, or the Office of Inspector General

"General Order G08-01-02" states, "Department members may contact a supervisor in the Bureau of Internal Affairs (BIA) to request an alternative reporting method when the accused is in the member's chain of command."⁵²

⁴⁹ Chicago Police Department, "General Order G08-01: Complaint and Disciplinary System."

⁵⁰ Chicago Police Department, "General Order G08-01-02: Complaint Initiation and Log Number Investigation Assignment."

⁵¹ Consent Decree at ¶436(a).

⁵² Chicago Police Department, "General Order G08-01-02: Complaint Initiation and Log Number Investigation Assignment."

COPA's website offers multiple ways to file complaints—individuals may submit complaints to COPA by phone, online, by mail, or in person.⁵³ The agency's online complaint form includes a checkbox for users to identify if they are a member of the Chicago Police Department.

OIG also takes complaints about all City employees, including CPD members, via phone or email, by mail, or through its online intake portal.⁵⁴

3 | CPD members can report anonymously to COPA or OIG

COPA and OIG allow individuals to report misconduct anonymously through phone calls, emails, letters, or their online intake portals. These anonymous reporting options are available to any individual who wants to report misconduct.

Paragraph 477 of the consent decree requires that, "The City and CPD will undertake best efforts to ensure that all complaints, including anonymous complaints, can be the subject of a misconduct investigation."⁵⁵

4 | CPD members can report anonymously to OIG via the CPD Member Hotline Portal

In 2017, OIG created an exclusive portal ("CPD Member Hotline") for CPD members, both sworn and civilian, to submit anonymous misconduct complaints online without fear of retaliation or censure.⁵⁶ The CPD Member Hotline uses a double-blind registration process that verifies the registering individual is in fact a CPD member and assigns them a unique, untraceable login number. Members then have access to the portal to file complaints or submit suggestions, thus providing an anonymous and confidential means of reporting misconduct. After submission, the portal provides members with a confirmation number that they can use to prove that they have reported the misconduct.

B | Not all methods to report are available for all forms of misconduct, nor are they all considered to fulfill CPD members' duty to report under Rules 21 and 22

Despite the availability of many methods to report misconduct, provisions within the consent decree and CPD directives state that CPD members must report through their chain of command. CPD directives and consent decree provisions further indicate that not all available reporting methods comply with Rules 21 and 22, thus effectively nullifying the broad range of reporting mechanisms that are technically available to CPD members.

⁵³ Civilian Office of Police Accountability, "Complaints," accessed April 12, 2023, <https://www.chicagocopa.org/complaints/>.

⁵⁴ Office of Inspector General, "Talk2IG," accessed May 25, 2023, <https://igchicago.org/talk2ig/>.

⁵⁵ Consent Decree at ¶477.

⁵⁶ OIG created this technology-based tool at the request of CPD, prompted by recommendations from both the PATF and the U.S. DOJ. City of Chicago Office of Inspector General, "Fourth Quarter Report 2017," January 16, 2018, 2, accessed May 18, 2023, <https://igchicago.org/wp-content/uploads/2018/01/OIG-4th-Quarter-2017-Report.pdf>. Office of Inspector General, "CPD Member Hotline," accessed May 25, 2023, <https://cpdmemberhotline.org/login>.

1 | Not all methods of reporting are available for all forms of misconduct

The consent decree aims to “ensure that there are adequate policies and practices in place to encourage and protect CPD members who report potential misconduct by other CPD members.”⁵⁷ However, it also demands that CPD create policies that instruct “CPD members [to] promptly report any misconduct of which they are aware to a supervisor.”⁵⁸ CPD’s “General Order G08-01-02” reflects this constraint and requires members who are aware of misconduct to immediately notify a supervisory Department member and prepare a memorandum before reporting off duty for the day.

CPD directives do allow for limited exceptions to this requirement to report to a member’s direct supervisor. For example, CPD’s “Special Order S08-01-10: Special Situations Involving Allegations of Misconduct” states that members must report misconduct involving another Department member to their immediate supervisor “unless the immediate supervisor is the member accused of misconduct.”⁵⁹ In this case, the directive still instructs the member to follow their internal chain of command by submitting a report to the member’s “next-level supervisor.” As previously noted, “General Order G08-01-02” does allow Department members to use an alternative reporting method “when the accused is in the member’s chain of command,” but reporting members must contact a supervisory member in BIA—an internal Department contact—to request the alternative method.⁶⁰

Additionally, CPD’s “Employee Resource E01-01: Equal Employment Opportunity Policy” states that a member who believes that they have been a victim of employment discrimination may bring a complaint to a CPD supervisor, CPD’s Legal Affairs Division, COPA, or BIA. This directive further states, “Department members...need not first report the complaint to their immediate supervisor delineated in the Department directive entitled ‘Complaint and Disciplinary Procedures’.”⁶¹ This pathway for reporting—to the Legal Affairs Division or outside the Department—is prescribed only for the limited category of complaints alleging employment discrimination.

2 | Not all methods are considered to meet reporting requirements under Rules 21 and 22

As described above, Rules 21 and 22 require members to report misconduct and criminal actions “to the Department.”⁶² This requirement severely limits the options CPD members have to report misconduct while still adhering to these rules. Under the current conditions, members who choose to report anonymously would also need to identify themselves and report the same allegations to the Department in order to meet their obligations. In COPA’s October 2022 budget hearing, the agency’s Chief Administrator noted that they have seen an increase in misconduct reported by self-identified CPD members.⁶³ However, COPA reported to OIG its view that “while COPA encourages

⁵⁷ Consent Decree at ¶436.

⁵⁸ Consent Decree at ¶436(a).

⁵⁹ Chicago Police Department, “Special Order S08-01-10: Special Situations Involving Allegations of Misconduct,” April 8, 2019, accessed April 12, 2023, <http://directives.chicagopolice.org/#directive/public/6977>.

⁶⁰ Chicago Police Department, “General Order G08-01-02: Complaint Initiation and Log Number Investigation Assignment.”

⁶¹ Chicago Police Department, “Employee Resource E01-01: Equal Employment Opportunity Policy,” August 22, 2017, accessed April 12, 2023, <http://directives.chicagopolice.org/#directive/public/6200>.

⁶² Chicago Police Department, “Rules and Regulations of the Chicago Police Department.”

⁶³ Sam Charles, “CPD officers reporting misconduct more often, COPA chief says,” *WGN*, October 17, 2022, accessed April 24, 2023, <https://wgntv.com/news/chicago-news/cpd-officers-reporting-misconduct-more-often-copa-chief-says/>.

CPD members to report misconduct to COPA, doing so does not absolve the member of their obligation to also report the misconduct to the Department.”⁶⁴ This duplication of effort renders moot any alternative methods of reporting in the fight against retaliation.

CPD’s “General Order G08-01: Complaint and Disciplinary System” instructs members on their ability to submit an anonymous report of misconduct to OIG, but explicitly states, “Reporting alleged misconduct anonymously on the OIG online complaint form does not relieve Department members of their duties as outlined in the Chicago Police Department Rules and Regulations or the Department directive titled ‘Complaint Initiation and Log Number Investigation Assignment’,” which requires members to report misconduct to a supervisory member.⁶⁵

CPD’s webpage “File an Anonymous Complaint (OIG)” states, “The Office of the Inspector General (OIG) maintains an online complaint form to anonymously report misconduct by City officials, employees (including Department Members), or those doing business with the City.”⁶⁶ The link provided on this page brings users to OIG’s general online intake portal, not the CPD Member Hotline. CPD’s website does not include any link for members to access OIG’s CPD Member Hotline.⁶⁷ In any event, in alignment with “G08-01,” CPD’s website includes the disclaimer that “Department Members should be aware that reports made on the ‘anonymous reporting website’ do not relieve them of duties under CPD Rules 21 and 22.”⁶⁸

This same contradiction, providing an anonymous method to report that does not satisfy reporting requirements, exists within the consent decree. Paragraph 429 of the consent decree states, “The City will continue to ensure that a website is made available to CPD members to anonymously report officer misconduct (‘anonymous reporting website’) and will internally disseminate information regarding the anonymous reporting website to all CPD members.”⁶⁹ Paragraph 728 further explains, “‘Anonymous reporting website’ means a website available to CPD members for the purpose of anonymously reporting member misconduct.”⁷⁰ Additionally, Paragraph 529 requires the Department to train CPD members on “use of the City’s anonymous reporting website.”⁷¹ However, although the consent decree requires the City to maintain an anonymous reporting website for CPD members, Paragraph 429 specifically states, “Reports made on the anonymous reporting website will not relieve CPD members of their duties under CPD Rules of Conduct 21 and 22.”⁷²

OIG raised concerns regarding this contradiction in a letter sent to the Independent Monitoring Team (IMT) and Department of Law in 2019, which addressed requiring and providing an

⁶⁴ COPA was unaware of any instances in which the agency has sustained a Rule 21 or 22 violation against a CPD member who reported misconduct to COPA but not to the Department.

⁶⁵ Chicago Police Department, “General Order G08-01: Complaint and Disciplinary System.” In its most recent report, the IMT reviewed this policy and determined it “completely addresses the requirements of ¶429...and the obligations that members must adhere to when reporting misconduct to the OIG.” Independent Monitoring Team, “Independent Monitoring Report 7,” June 29, 2023, 1200 (PDF page number), accessed July 18, 2023, <https://cpdmonitoringteam.com/wp-content/uploads/2023/06/2023.06.29-Independent-Monitoring-Report-7-final-1.pdf>.

⁶⁶ Chicago Police Department, “File an Anonymous Complaint (OIG),” accessed April 12, 2023, <https://home.chicagopolice.org/services/file-an-anonymous-complaint/>.

⁶⁷ OIG was unable to find any reference or link to the CPD Member Hotline within CPD directives or Department resources.

⁶⁸ Chicago Police Department, “File an Anonymous Complaint (OIG),” accessed April 12, 2023, <https://home.chicagopolice.org/services/file-an-anonymous-complaint/>.

⁶⁹ Consent Decree at ¶429.

⁷⁰ Consent Decree at ¶728.

⁷¹ Consent Decree at ¶529(b).

⁷² Consent Decree at ¶429.

anonymous reporting method when use of that method may not be considered to meet CPD members' reporting obligations. OIG did not receive a response from either party.

C | These structural impediments may put CPD members at risk of retaliation and serve as barriers to reporting misconduct

The concerns about retaliation which necessitate the meaningful availability of anonymous reporting mechanisms are animated by a very real history of retaliation against CPD members who have reported misconduct by their colleagues.

Recently, the City has paid several multimillion-dollar lawsuits in response to CPD members who reported misconduct to their supervisors and subsequently experienced retaliation from the Department. In one instance, two CPD members alleged that in 2007 they were told by their supervisors to ignore evidence of criminal misconduct by Sergeant Ronald Watts.⁷³ When their concerns were dismissed by supervisors, the two members instead reported their allegations to the Federal Bureau of Investigation (FBI) and joined an investigation into Watts. The FBI investigation found that Watts took money from drug dealers in exchange for protection and brought false charges against those who would not pay. Following the Watts investigation, the two CPD members alleged they were labeled “rats” by supervisory CPD members and were told that fellow members would not be sent to assist them in emergencies. The two members filed a lawsuit in response to this retaliation, and in 2016, the City paid \$2 million to settle their claims.⁷⁴

In another instance, in 2012, a CPD member was rebuffed by two separate supervisors when the member attempted to report a colleague's abusive behavior. The fellow member reportedly screamed, “Who the f--- do you think you are, you stupid B----?” and allegedly raised their hand as if threatening to hit the reporting member. After their concerns went unrecognized by supervisors, the reporting member filed a complaint with BIA, and the member's complaints were later Sustained. The reporting member filed a lawsuit alleging that, shortly after reporting the misconduct, the member was reassigned “to midnight beat patrol in a dangerous neighborhood” in retaliation for reporting their fellow member's misconduct. In 2019, a Cook County jury awarded the reporting member \$1.8 million dollars.⁷⁵

In a separate case, in 2016, a CPD member found evidence that the narrative provided by two fellow members during an arrest was inconsistent with eyewitness accounts and video footage. The CPD member reported this potential misconduct to their supervisor and the Cook County State's Attorney's Office, which reached out to BIA to launch an investigation. During this investigation, the

⁷³ For more information on the Watts investigation, see: Jamie Kalven, “In the Chicago Police Department, If the Bosses Say It Didn't Happen, It Didn't Happen,” *The Intercept*, October 6, 2016, accessed April 5, 2023, <https://theintercept.com/2016/10/06/in-the-chicago-police-department-if-the-bosses-say-it-didnt-happen-it-didnt-happen/>.

⁷⁴ Fran Spielman, “Alderman authorize \$2M settlement to police whistleblowers,” *Chicago Sun Times*, October 31, 2016, accessed March 28, 2023, <https://chicago.suntimes.com/2016/10/31/18359379/aldermen-authorize-2m-settlement-to-police-whistleblowers>; John Byrne, “\$2M settlement in whistleblower case that allowed mayor to skip testimony,” *Chicago Tribune*, November 1, 2016, accessed March 28, 2023, <https://www.chicagotribune.com/politics/ct-emanuel-whistleblower-police-settlement-met-20161031-story.html>.

⁷⁵ Matthew Hendrickson, “Jury awards nearly \$2M to former cop who was retaliated against after reporting misconduct,” *Chicago Sun-Times*, August 9, 2019, accessed April 12, 2023, <https://chicago.suntimes.com/2019/8/9/20799210/jury-awards-2-million-former-cop-retaliated-against-after-reporting-co-workers-misconduct>; John Byrne, “Aldermen to consider \$3.8 million settlement with former Chicago cop who says she was punished for reporting alleged abusive incident,” *Chicago Tribune*, September 8, 2020, accessed April 12, 2023, <https://www.chicagotribune.com/politics/ct-lori-lightfoot-police-misconduct-settlement-20200908-zzke7hneig57fh4jyhjrm5lsg-story.html>.

reporting member was transferred, put on midnight shifts, and taken off their detail, which the member argued were acts of retaliation for reporting the misconduct. In 2022, a Cook County jury agreed that these actions violated the Illinois Whistleblower Act and awarded the CPD member more than \$4.3 million in damages.⁷⁶

CPD officials have publicly recognized the risks that can accompany reporting misconduct. In an October 2020 speech to new recruits, then-Superintendent Brown admitted that members who report misconduct may experience repercussions from their coworkers. Brown told the recruits that fellow CPD members may “look at you wrong” or say, “I’m going to slow my response to covering you when you call [for help].” Brown warned the recruits, “That’s this culture you’re getting into.”⁷⁷

Some COPA and BIA investigators interviewed by OIG also reported a belief that cultural impediments may contribute to members’ reticence to report misconduct. A COPA investigator stated that the “blue code of silence is real,” and internal CPD norms against reporting misconduct may serve as important barriers; the COPA investigator also acknowledged that members put themselves in a difficult position when they become known as a member who reports the misconduct of their colleagues. A BIA investigator also recognized these limitations, noting to OIG that peer pressure may be an obstacle to reporting misconduct through the Department.

During OIG’s observation of CPD’s ABLE training regarding members’ duty to intervene, the class was asked to identify “inhibitors” which may prevent a member from intervening in a colleague’s misconduct. CPD members suggested peer pressure, fear of ostracization, personal relationships, an unwillingness to get involved, fear of being labeled a snitch, and lawsuits as potential barriers to intervention in ongoing misconduct. Although these inhibitors were provided in the context of intervention, these same concerns may also apply to reporting misconduct through the CPD chain of command.

Additionally, both DOJ and PATF reported that they heard rank and file Department members express little confidence in the efficacy of the internal police disciplinary system because, among other reasons, reports of misconduct would not be acted upon and put them at risk of retaliation. DOJ and PATF also noted that members’ fear of reprisal was greatest in situations involving misconduct by supervisors and others in higher ranks.

By requiring CPD members to report misconduct through their chain of command, CPD jeopardizes consistent and robust reporting and hobbles enforcement of the duty to report. Members who do not feel comfortable reporting misconduct to their direct supervisor and are not aware of or empowered to use other options may simply fail to report misconduct.

⁷⁶ Mary Norkol, “Jury awards CPD whistleblower more than \$4 million in suit against city,” *Chicago Sun Times*, July 23, 2022, accessed March 28, 2023, <https://chicago.suntimes.com/city-hall/2022/7/23/23275529/chicago-police-whistleblower-lawsuit-svec-4-million-award>.

⁷⁷ Patrick Smith, “Chicago’s Top Cop Tells Recruits They May Need To Ignore Trainers And Supervisors To Do What’s Right,” *WBEZ Chicago*, October 13, 2020, accessed April 12, 2023, <https://www.wbez.org/stories/chicagos-top-cop-tells-recruits-they-may-need-to-ignore-trainers-and-supervisors-to-do-whats-right/2deb7145-e788-4b01-99cf-1df55a67d1b9>.

D | The existing mechanism for verified, trackable anonymous complaints has unrealized potential to lower barriers to reporting and protect CPD members

OIG's CPD Member Hotline may provide for or at least bode for solutions, but it has been underused and its potential unrealized. Not only are CPD policies silent on the existence of this unique-to-members mechanism, but CPD leadership has done little to support or promote this reporting tool. As a result, OIG has received only 9 complaints through the CPD Member Hotline since the portal was launched in 2017.⁷⁸

Despite the low number of complaints received via the Hotline, its utility and value—particularly in situations of supervisor misconduct—has been demonstrated. In 2018, acting on a misconduct complaint received through the CPD Member Hotline, an OIG investigation established that a high-ranking CPD member (“Supervisor”) directed on-duty CPD members under their supervision to chauffeur their child from school to the District police station in a CPD vehicle on a weekly basis for approximately one year. Those same members subsequently, at the Supervisor’s direction and while on-duty, monitored the Supervisor’s child for recurring two- to three-hour periods at the District police station. During OIG’s investigation into this alleged misconduct, the Supervisor’s subordinates reported that they knew what they were being ordered to do was inappropriate, but they feared consequences for refusing to do so.⁷⁹ Despite the fact that many CPD members were aware of the Supervisor’s misconduct, OIG received no non-anonymous complaints about it. OIG finds no record that either BIA or COPA did either; this strongly suggests that fear of retaliation inhibited the reporting even of misconduct of which many people were aware.

Furthermore, upon reviewing the IMT’s semiannual consent decree compliance reports, it is clear that when referencing CPD members’ anonymous reporting options, both the IMT and the Department exclusively point to OIG’s general online intake portal and have not considered the additional functionality provided by the CPD Member Hotline.

In its evaluations of the City’s compliance with Paragraph 429, which mandates the City to maintain an anonymous reporting website, the IMT has continuously assessed OIG’s general online intake portal, available to all individuals, rather than the CPD Member Hotline, which is exclusively intended to serve CPD members wishing to file reports anonymously.

In one report, the IMT suggested that, “the City and the OIG provide unique identifiers to those who report misconduct through the website,” and stated that, “Unique identifiers would permit those who report officer misconduct to remain anonymous, while simultaneously allowing CPD members

⁷⁸ OIG also receives complaints from CPD members through OIG’s general online intake portal in which they identify themselves, as well as anonymous complaints that purport to be from CPD members. OIG mistakenly reported in previous quarterly reports that additional complaints were received through the CPD Member Hotline. OIG confirmed as of February 2, 2023, that only 9 complaints have been submitted through this portal since its inception.

⁷⁹ At the conclusion of its investigation, OIG recommended that the supervisor be disciplined up to and including termination. Then-Superintendent Eddie Johnson largely concurred with OIG’s investigative findings, and suspended the supervisor for seven days. See OIG’s “Fourth Quarter Report 2018” for further details on this investigation. City of Chicago Office of Inspector General, “Fourth Quarter Report 2018,” January 15, 2019, accessed April 11, 2023, <https://igchicago.org/wp-content/uploads/2019/01/OIG-2018-Fourth-Quarter-Report-.pdf>.

to report misconduct without violating CPD Rules of Conduct 21 and 22.”⁸⁰ OIG’s CPD Member Hotline, established prior to the consent decree, has this functionality—individuals must verify their identity as a CPD member and are assigned a unique, untraceable login number. Another IMT report stated that the reporting system should allow officers to “receive proof, such as a reporting code number or similar designation, of [their] report so that the officers can remain anonymous for as long as possible while complying with CPD Rules 21 and 22.”⁸¹ This is precisely what OIG’s CPD Member Hotline permits.

While CPD’s directives and the IMT’s assessments have not, to date, fully reflected the availability and functionality of OIG’s CPD Member Hotline, the IMT’s comments on trackable, provable anonymous complaints signal a possibility that the CPD Member Hotline, or a system like it, could permit anonymous reporting which satisfies CPD members’ reporting duties—and that a key structural obstacle to reporting misconduct could be removed.

E | Despite the availability of potential solutions and some protective policy efforts, CPD members remain vulnerable to retaliation and misconduct vulnerable to underreporting

CPD has taken some policy steps to address retaliation concerns through its “General Order G08-05: Prohibition of Retaliation,” which reiterates members’ duty to report misconduct, prohibits members from engaging in acts of retaliation, and provides guidance on how to report perceived retaliation. The directive specifically prohibits “any and all forms of retaliation against any Department member [for]...filing a complaint, reporting an allegation of misconduct, or providing information regarding alleged misconduct.”⁸² Notably, however, the directive requires Department members who observe retaliation or believe they have been a victim of retaliation to “immediately notify a Department supervisor”—the very reporting structure which likely puts members most at risk of retaliation in the first place.⁸³ “General Order G08-05” does permit members to “contact a supervisor in the Bureau of Internal Affairs to request an alternative reporting method,” but still requires members to report allegations of retaliation to internal Department members rather than an independent third-party agency and does not provide a meaningful opportunity to report anonymously.⁸⁴

Regardless of the technical availability of the CPD Member Hotline—or, for that matter, any other mechanism for reporting anonymously or outside the Department—CPD members face two restrictions: 1) they are required to report directly to their supervisors, and 2) in order to satisfy their obligations under Rules 21 and 22, they must duplicate any anonymous report with a non-anonymous complaint made up their chain of command or, at best, elsewhere within the Department.

⁸⁰ Independent Monitoring Team, “Second Semi-Annual Independent Monitoring Report,” June 18, 2020, 357, accessed May 25, 2023, https://cpdmonitoringteam.com/wp-content/uploads/2020/06/2020_06_18-Independent-Monitoring-Report-2-filed.pdf.

⁸¹ Independent Monitoring Team, “Independent Monitoring Report 3,” March 30, 2021, 679, accessed May 25, 2023, https://cpdmonitoringteam.com/wp-content/uploads/2021/04/2021_03_30-Independent-Monitoring-Report-3-amended-filed.pdf.

⁸² Chicago Police Department, “General Order G08-05: Prohibition of Retaliation,” December 30, 2020, accessed April 12, 2023, <http://directives.chicagopolice.org/#directive/public/6176>.

⁸³ Chicago Police Department, “General Order G08-05: Prohibition of Retaliation.”

⁸⁴ Chicago Police Department, “General Order G08-05: Prohibition of Retaliation.”

The terms of the consent decree concretize and exacerbate this condition by both highlighting and mandating the availability of an anonymous reporting option, while crippling its potential utility by codifying a structure in which anonymous reporting does not satisfy members' obligations under Rules 21 and 22.⁸⁵ CPD members tasked with investigating misconduct within the Department recognize this internal inconsistency. In interviews with OIG, both a high-ranking BIA official and an investigator with the unit suggested that this consent decree language may itself function as an impediment to reporting misconduct.

In effect, by having only one reporting method available to relieve members of their obligations under Rules 21 and 22, these requirements all but prohibit meaningful opportunities for CPD members to make anonymous reports of misconduct, and thereby heighten risks of underreporting, intimidation, and retaliation.

| Recommendations

2. CPD should resolve internal inconsistencies in its own policies which permit and protect anonymous reporting mechanisms but render anonymous reports inadequate to satisfy members' duty to report. Similarly, CPD should work with other entities as necessary to address the same inconsistency in the terms of the consent decree, in the interest of ensuring that members may discharge their duty to report without fear of or exposure to risks of retaliation.
3. CPD should take all necessary steps to enact policies allowing for trackable, verified, anonymous misconduct complaints made through OIG's CPD Member Hotline—or another, similar system—to satisfy members' reporting obligations.
4. CPD should regularly inform members of all methods available to report misconduct (i.e., contacting BIA, COPA, or OIG; anonymously reporting to COPA or OIG; and anonymously reporting via OIG's CPD Member Hotline) and include all methods within its training materials, directives, and on its CPD Employee Services webpage.

| Management Response

2. *CPD is reviewing its policies to identify and resolve perceived inconsistencies. In this report the OIG identified inconsistencies and has agreed to continue to work with CPD to continue to identify inconsistencies.*
3. *The Department will consider this recommendation and the practical applications of this recommendation. These practical considerations must be made before the Department can commit to adopting this recommendation.*
4. *The Department believes that this information has been communicated to members in a number of manners and at various times. That said, the Department will take steps to include this more prominently on its internal and external website, and include it in the 2024 in service training. Further, as stated above, BIA will send out a quarterly newsletter to members and will include this information as well.*

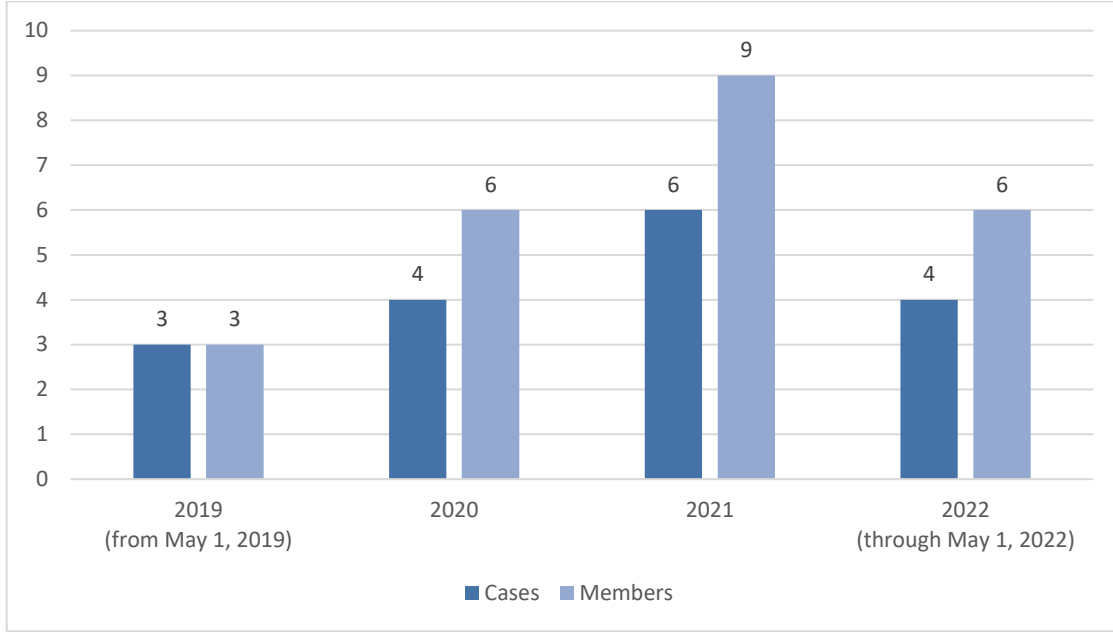
⁸⁵ Consent Decree at ¶429.

Finding 3: COPA and BIA do not consistently pursue violations of Rule 21 and Rule 22, which compromises enforcement of the rules, and inhibits any thorough analysis of failures to report—on the part of individual members or agency-wide.

Within Chicago's police accountability system, COPA and BIA are tasked with investigating misconduct allegations and appropriately identifying violations of applicable rules and policies. As part of this inquiry, OIG reviewed data provided by COPA and BIA on disciplinary investigations closed between May 1, 2019, and May 1, 2022, in which the investigating agency sustained a Rule 21 or Rule 22 violation. During this three-year time period, the agencies—combined—sustained Rule 21 or 22 violations in 17 investigations.⁸⁶ Because some investigations contained allegations against multiple members who witnessed the same misconduct, a total of 24 members received Sustained Rule 21 or 22 violations within this timeframe.

⁸⁶ Depending on their rank and the level of discipline at issue, CPD members may have several options available if they choose to challenge or grieve the outcome of a misconduct investigation. Some cases come up for review by the Chicago Police Board, which has the authority to uphold, reduce, or overturn the discipline recommended by the investigating agencies. Figure 1 shows Rules 21 and 22 violations sustained by COPA or BIA at the conclusion of the agency's investigation prior to any challenge or grievance. The Police Board was not included in this evaluation of the enforcement of Rules 21 and 22. See OIG's report "Disciplinary Grievance Procedure for CPD Members" for more information on the grievance process. City of Chicago Office of Inspector General, "Disciplinary Grievance Procedure for CPD Members," May 20, 2021, accessed April 17, 2023, <https://igchicago.org/wp-content/uploads/2021/05/OIG-Review-of-the-Disciplinary-Grievance-Procedure-for-Chicago-Police-Department-Members.pdf>.

Figure 1: Sustained Rules 21 and 22 Violations from May 1, 2019, to May 1, 2022



Source: OIG analysis of closed COPA and BIA cases

In an October 2021 written response to OIG regarding the purpose of investigating violations of Rules 21 and 22, COPA stated, “The required reporting under [R]ules 21 and 22 is a measure of police integrity and accountability.” BIA leadership similarly noted, “These two rules serve to ensure and enhance the Chicago Police Department’s commitment to a robust culture of accountability across all ranks. Holding Department members accountable for violations of law and policy ensures legitimacy and community confidence.”

Despite the agencies’ stated commitments, OIG found that COPA and BIA do not consistently pursue Rule 21 or 22 violations across misconduct investigations.

A | COPA and BIA do not consistently pursue Rule 21 or 22 violations across investigations involving the failure to report misconduct

In current practice, at the investigator’s discretion, COPA and BIA may pursue different rule violations to address conduct that might constitute a violation of Rule 21 or 22. While the investigating agencies must consider different facts in each disciplinary case, they should have a consistent, fair, and principled approach to the application of the rules and the type of conduct to which the rules apply. If the investigating agencies fail to consistently pursue Rules 21 and 22 violations against members who do not report misconduct, those rules cannot be meaningfully and robustly enforced in a fair and consistent manner.

OIG has reviewed BIA and COPA investigations in which the investigating agency alleged and sustained Rule 21 or 22 violations during investigations into misconduct. The following case studies

provide examples of misconduct cases that the agencies determined violated Rule 22 of CPD's Rules and Regulations.

Case Study #1

In December 2019, BIA investigated a CPD member for failing to report a traffic crash in which the member was involved while on-duty and driving a CPD vehicle. Upon concluding its investigation in August 2021, BIA found that the accused failed to properly follow the procedures of documenting a traffic crash involving a CPD member, including failing to immediately notify the Office of Emergency Management and a supervisor immediately after the accident occurred. The accused member received a Sustained Rule 22 violation for the failure “to appropriately report an incident within the guidelines depicted within the Department directives.”

Case Study #2

In May 2021, three CPD members were on patrol when they heard a civilian yelling at an intersection and stopped to investigate. After exiting the vehicle, a verbal altercation ensued between one of the CPD members and the civilian. During the encounter, the CPD member told the civilian, “Your mother’s a b----.” This event was captured on the accused member’s body-worn camera (BWC), and COPA sustained allegations against them for, among other things, “engaging in an unjustified verbal altercation” with the civilian. Three other CPD members, including a Sergeant, witnessed the verbal abuse or were made aware of the allegations but did not report the misconduct. In April 2022, COPA sustained Rule 22 violations against these members for failing to report the verbal abuse.⁸⁷

OIG has also, notably, reviewed investigations in which Rule 21 or 22 violations were not pursued against members who failed to report misconduct. By way of example, in the following case studies, the investigating agency found that a member had committed verbal abuse and that their colleagues were aware of their having done so but did not report the misconduct. In each of these cases, the investigating agency did not pursue Rule 21 or 22 violations.

Case Study #3

In October 2021, COPA completed an investigation involving a traffic stop that occurred in 2018. During the incident, two CPD members pulled over a vehicle for failing to stop at a stop sign and the complainant alleged that one of the members questioned their accent and country of origin without justification. Based on video from both the accused member and their partner’s BWC, COPA determined that the accused member told the driver that they “must not be from the United States” and stated that someone from the United States “would know better [than] to run stop signs in front of the police.” COPA sustained an allegation against the accused member for their unprofessional behavior. However, despite using the partner’s BWC footage to corroborate the complainant’s claim—suggesting that the partner was within sight and earshot of the misconduct—COPA did not pursue a Rule 22 violation against the accused member’s partner for failing to report it.

⁸⁷ Civilian Office of Police Accountability, “Summary Report of Investigation Log# 2021-0001800,” April 12, 2022, accessed April 10, 2023, https://www.chicagocopa.org/wp-content/uploads/2022/09/2021-0001800_FSR.pdf.

Case Study #4

In May 2019, BIA investigated an allegation that a CPD member refused to summon a supervisor during a traffic stop and spoke in an unprofessional and derogatory manner toward the complainant. Audio from a cell phone video taken by the complainant as well as BWC footage revealed that the accused CPD member refused multiple requests from the complainant to call a supervisor to the scene. Further, the member told the complainant they needed anger management and stated, “all that Beijing [sic] in your hair has got you trippin’.” In June 2021, BIA sustained allegations against the CPD member for their unprofessional conduct during the traffic stop. In its review of closed misconduct investigations, OIG’s Investigative Analysis Unit found that although the accused member’s partner was present for the event and their BWC captured audio of this verbal abuse, BIA did not pursue a Rule 22 violation, or in fact a violation of any other rule, for the failure of the accused member’s partner to report the misconduct.

B | COPA and BIA sustain violations other than Rules 21 and 22 to address members’ failure to report misconduct

In an interview with OIG, COPA personnel reported that a search for Sustained Rule 21 and Rule 22 violations within the Case Management System, the software system investigating agencies use to track misconduct cases, would not yield all allegations related to a failure to report misconduct. Specifically, COPA explained that many of CPD’s rules and directives overlap and investigators may not enter all applicable rule violations into the system. For example, Rule 22 requires CPD members to report any improper conduct that goes against Department policy, orders, or directives. CPD’s “General Order G08-01-02” has a similar requirement, stating that when a CPD member learns of an allegation of misconduct, the member will “immediately notify a supervisory Department member.”⁸⁸ Therefore, if a member does not report misconduct to their supervisor, in addition to violating Rule 22, the member has also violated CPD’s “General Order G08-01-02.”

COPA personnel reported to OIG that when drafting allegations, investigators try to be as specific as possible and often cite violations of General Orders because these directives typically contain more specific language than the rules. COPA went on to state that investigators reviewing cases where misconduct is not reported may decide to sustain a Rule 6 violation, which prohibits the “[d]isobedience of an order or directive, whether written or oral,” rather than a Rule 21 or 22 violation. COPA’s Deputy Chief Administrator stated that there may be times when multiple rule violations, such as violations of both Rule 6 and Rule 22, could be applied to the same allegation, but in practice, each separate rule violation is not always entered in the system. Both BIA and COPA leadership confirmed there is nothing that prohibits investigators from sustaining multiple rule violations against a member for the same allegation. Further, notably, the consent decree mandates that “when an allegation of misconduct contains multiple separate potential policy violations, all applicable violations will be identified and investigated.”⁸⁹ When asked about the inconsistent application of rule violations, two members of BIA stated that the determination of rule violations is done on a case-by-case basis and at the individual investigator’s discretion. Although investigators

⁸⁸ Chicago Police Department, “General Order G08-01-02: Complaint Initiation and Log Number Investigation Assignment.”

⁸⁹ Consent Decree at ¶503.

must reckon with the individual facts of each case, they should maintain a consistent, fair, and principled approach to the enforcement of rules across investigations.

The following case studies highlight investigations in which COPA and BIA sustained allegations against members for failing to report misconduct, but sustained violations of rules other than Rule 21 or 22.

Case Study #5

In February 2020, a CTA employee responded to a stabbing at a train station where the CTA employee encountered a CPD member who allegedly grabbed, pushed, and engaged in a verbal altercation with them. The CTA employee complained of the member's alleged misconduct to the Sergeant on scene, who refused to take the complaint, and instead had the CTA employee handcuffed and detained for obstruction. COPA investigated the incident and, in May 2021, sustained an allegation against the Sergeant for failing to report the CTA employee's complaint of misconduct against the initial CPD member. In its findings, COPA stated that "[the Sergeant] failed to adhere to and promote CPD policy when [they] refused to take [the complainant's] misconduct complaint against [the initial member]." Rather than also sustaining a Rule 22 violation against the Sergeant for failing to report misconduct, COPA's Summary Report shows they instead sustained the misconduct "as a violation of Department Rules 2, 3, 6, and 10."⁹⁰

Case Study #6

In September 2021, COPA concluded its investigation into an incident that occurred during protests and unrest in the Summer 2020. During the incident, CPD members demanded individuals exit their car, banged on the windows of the vehicle with their batons until the windows broke, and forcibly removed one of the occupants. According to COPA's Summary Report, witnesses on the scene attempted to stop the occupants from being detained, and a CPD member responded by "directing a significant number of profanities and derogatory remarks" at them. COPA sustained an allegation against a witnessing member at the scene for failing to report this verbal abuse. The witnessing member told COPA that they did not hear the member's remark, but COPA determined that there was "no reasonable explanation, even when considering the chaotic environment, as to why [the witnessing member] would not have heard the statement." Even despite finding that "[the witnessing member] fail[ed] to initiate a complaint or report" regarding the other member's verbal abuse, COPA sustained violations of Rules 2, 3, and 6, but not Rule 22.⁹¹

Case Study #7

Following its investigation of an incident that occurred during the 2020 summer protests and unrest, COPA sustained an allegation against a CPD member after determining that they "failed to report the excessive force" used by a fellow member when they struck a civilian. In their statement to

⁹⁰ Rules 2,3, 6, and 10 prohibit, "[a]ny action or conduct which impedes the Department's effort to achieve its policy and goals or brings discredit upon the Department," "[a]ny failure to promote the Department's efforts to implement its policy or accomplish its goals," "[d]isobedience of an order or directive, whether written or oral," and "[i]nattention to duty," respectively. Chicago Police Department, "Rules and Regulations of the Chicago Police Department;" Civilian Office of Police Accountability, "Summary Report of Investigation Log #2020-0000630," May 24, 2021, accessed April 10, 2023, https://www.chicagocopa.org/wp-content/uploads/2023/04/2020-0000630_FSR.pdf.

⁹¹ Civilian Office of Police Accountability, "Summary Report of Investigation Log #2020-0002128." September 27, 2021, accessed April 12, 2023, https://www.chicagocopa.org/wp-content/uploads/2022/06/2020-2128-SRI-FINAL_blackbox-1.pdf.

COPA, the witnessing member stated that they were not required to report the fellow member's actions because that member did not make physical contact with the civilian. COPA, in its June 2021 analysis, stated that "the audio and video footage of this incident, and the injuries sustained by [the civilian], refute this statement entirely," and that the video evidence depicts the witnessing member standing by the fellow member at the time they struck the civilian.⁹² COPA found that "[the witnessing member] observed [the fellow member's] actions and was responsible for reporting them to [their] immediate supervisor." Despite this finding, COPA determined that the witnessing member violated Rules 3 and 6, not Rule 21 and/or 22.⁹³

Case Study #8

In March 2022, BIA investigated a CPD member for failing to secure their firearm and failing to report the theft of their weapon in a timely manner. BIA found that the member placed the weapon in their personal vehicle, which was subsequently stolen. Although the member immediately reported their vehicle as stolen, they failed to report the theft of their firearm until after the vehicle, without the weapon, was recovered nine days later. BIA did not pursue a Rule 22 violation. Instead, BIA sustained only a Rule 6 violation for the member's failure to "comply with Department Order U04-02 VII C-1(a) which states, if the loss or theft of a firearm or weapon occurs within the City of Chicago, the member will promptly report the incident to the Department."⁹⁴

C | Underenforcement and underreporting of Rules 21 and 22 violations compromise the ability of CPD and other stakeholders to evaluate patterns of reporting misconduct across the Department and within members' own disciplinary histories

Inconsistencies within COPA and BIA's investigative practices stand in the way of these agencies fulfilling their stated missions to "identify and address patterns of police misconduct," and "to ensure integrity and ethical conduct within the Department through . . . accountability."⁹⁵

Underenforcement of Rules 21 and 22 undermines these goals and serves as a barrier to effective oversight and meaningful reform. As the PATF report pointed out, "the persistent failure of IPRA and BIA to examine pattern and practice evidence substantially contributes to the police accountability vacuum in Chicago."⁹⁶

Sustaining other rule or directive violations, without pursuing Rule 21 or 22 violations when applicable, compromises any ability to meaningfully evaluate the state of CPD members'

⁹² Despite this finding of fact, COPA did not pursue a violation of Rule 14, which prohibits "[m]aking a false report, written or oral." Chicago Police Department, "Rules and Regulations of the Chicago Police Department." See OIG's report on the "Enforcement of CPD's Rule Against False Reports" for more information. City of Chicago Office of Inspector General, "Enforcement of CPD's Rule Against False Reports," May 25, 2023, accessed May 25, 2023, <https://igchicago.org/wp-content/uploads/2023/05/Enforcement-of-CPDs-Rule-Against-False-Reports-%E2%80%93-Rule-14.pdf>.

⁹³ Civilian Office of Police Accountability, "Summary Report of Investigation Log #2020-0003252," June 29, 2021, accessed April 10, 2023, https://www.chicagocopa.org/wp-content/uploads/2021/06/2020-3252_blackbox-1.pdf.

⁹⁴ Chicago Police Department Bureau of Internal Affairs, "Administrative Summary Report Log No:2022-0001181," August 30, 2022, accessed April 17, 2023, <https://complaints.blob.core.usgovcloudapi.net/reports/2022-0001181.pdf>.

⁹⁵ Civilian Office of Police Accountability, "COPA Vision and Mission," accessed April 19, 2023, <https://www.chicagocopa.org/about-copa/mission-history/>; Chicago Police Department Bureau of Internal Affairs, "Fourth Quarter 2022," accessed April 12, 2023, <https://home.chicagopolice.org/wp-content/uploads/BIA-Quarterly-Q4-2022.pdf>.

⁹⁶ Police Accountability Task Force, "Recommendations for Reform."

performance of their duty to report misconduct and therefore the state of any efforts to combat the “code of silence.” A Rule 21 or 22 violation applies to a specific set of circumstances. On the other hand, a Rule 6 violation is very broad and does not state which specific policy or General Order was violated.⁹⁷

Further, by failing to consistently pursue Rule 21 or 22 violations when potentially applicable, CPD and COPA run the risk of missing patterns in the frequency of these rule violations not only across the Department but also within an individual member’s disciplinary history. In interviews with OIG, BIA and COPA investigators addressed the negative consequences of the agencies’ failure to pursue Rule 21 or Rule 22 violations when later reviewing a member’s disciplinary history. One BIA investigator stated that once the findings or rule violations have been established in a case, a member’s complimentary and disciplinary history is pulled to determine an appropriate recommendation for discipline. A BIA supervisor noted that if a member has previously sustained allegations for the same issue as the open investigation, the member would incur a recommended discipline that builds on their previous history, an approach known as progressive discipline. A high-ranking BIA official specifically noted in an interview with OIG that a member’s complimentary and disciplinary history might aggravate or mitigate the agency’s disciplinary recommendations. When asked about progressive discipline and if the impact of disciplinary history could change the recommended discipline if a member sustained multiple violations of the same rule, the high-ranking BIA official responded, “Definitely. Anything that’s a pattern would be a concern.” The BIA supervisor added that if a Rule 21 or 22 violation is not correctly labeled, the CPD member may face less discipline than would be appropriate, because the history of the member’s Sustained Rule 21 or 22 violations would not be considered in reaching a disciplinary recommendation.

Additionally, without an accurate and complete accounting of members’ failure to report misconduct, CPD is limited in its ability to make operational improvements that might effectively address any existing barriers to reporting, and is therefore profoundly limited in any effort to chip away at underpinnings of the “code of silence.”

| Recommendations

5. COPA and BIA should consistently pursue Rule 21 and/or 22 violations when members fail to report misconduct or criminal activity, along with any other applicable rule violations, and should adopt or update policies and trainings as necessary to do so.

| Management Response

A | CPD Management Response

5. *The Department agrees with this recommendation and believes that its newly revised directives that were completed with input from the Office of the Attorney General and the Independent Monitoring Team fulfill this recommendation.*

⁹⁷ Rule 6 prohibits “disobedience of an order or directive, whether written or oral.” Chicago Police Department, “Rules and Regulations of the Chicago Police Department.” COPA stated that when investigators allege Rule 6 violations, they indicate in their analysis which specific directive was violated. Broad trend analysis of rule violations therefore would not clearly indicate the nature of misconduct encompassed within a Rule 6 violation, as a Rule 6 violation could apply to the violation of any CPD directive, not only the directives requiring a member to report misconduct.

B | COPA Management Response

5. *COPA appreciates OIG's feedback and takes seriously its duty to investigate allegations of an officer's failure to report misconduct. However, COPA believes it is substantially addressing the issues identified in OIG's report. COPA already has robust internal policy requiring investigators to consider all potential allegations* and regularly pursues alleged failures to report misconduct where appropriate.** COPA agrees there is room to improve rule citations in its reporting and will consider developing additional training toward that end.*

** See COPA Policy – Fact Gathering & Investigative Process, § III.A.11 (eff. Nov. 1, 2021), available at https://www.chicagocopa.org/wp-content/uploads/2021/11/COPA-Policy_Fact-Gathering_FINAL_2021-11-01.pdf*

*** As noted in OIG's report, COPA often pursues allegations regarding a failure to report under Department directives rather than Rules 21 and 22.*


V | Conclusion

The 2017 U.S. Department of Justice report found that “given the code of silence within CPD and a potential fear of retaliation, there are valid reasons a complainant may seek to report police misconduct anonymously, particularly if the complainant is a fellow officer.”⁹⁸ CPD’s Rules and Regulations include requirements for members to report misconduct, and the Department advises members of their duty to report misconduct and criminal actions as they go through basic recruit training. However, the current guidelines, which require members to report most misconduct through their chain of command, leave members vulnerable to retaliation or censure. Given the importance of holding members accountable for misconduct, CPD should work to ensure members are aware of and can fulfill their reporting duties using the full spectrum of reporting options available to them. Additionally, COPA and CPD’s BIA should consistently pursue Rules 21 or 22 violations, as applicable, so as not to preclude any thorough analysis of patterns in the frequency of these rule violations not only across the Department but also within an individual member’s disciplinary history.

That there is a duty to report misconduct on CPD’s books has been insufficient to prevent or eliminate a “code of silence.” The rules setting out that duty must be meaningfully, thoroughly, and thoughtfully enforced.

⁹⁸ United States Department of Justice Civil Rights Division and United States Attorney’s Office Northern District of Illinois, “Investigation of the Chicago Police Department,” January 13, 2017, 51, accessed April 5, 2023, <https://www.justice.gov/opa/file/925846/download>.

Appendix A | Management Response from the Chicago Police Department



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Management Response Form

Inquiry Title and Number: Enforcement of the Chicago Police Department's Rules Requiring Members to Report Misconduct
OIG File #:C2022-000032007

Department Name: Chicago Police Department

Commissioner/Department Head: Interim Superintendent Fred Waller

Date: July 14, 2023

OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
1. CPD should formally incorporate duty to report requirements into its in-service training program and should issue periodic communications to remind members of and refresh them on their duty to report misconduct.	CPD agrees that this should be included. BIA is developing a quarterly newsletter to coincide with its Quarterly report and will include a reminder of Rule 21 in this quarterly newsletter.	CPD will take steps to include this in the 2024 in service training.	

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4601



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OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
2. CPD should resolve internal inconsistencies in its own policies which permit and protect anonymous reporting mechanisms but render anonymous reports inadequate to satisfy members' duty to report. Similarly, CPD should work with other entities as necessary to address the same inconsistency in the terms of the consent decree, in the interest of ensuring that members may discharge their duty to report without fear of or exposure to risks of retaliation.	CPD is reviewing its policies to identify and resolve perceived inconsistencies. In this report the OIG identified inconsistencies and has agreed to continue to work with CPD to continue to identify inconsistencies.	12 months	
3. CPD should take all necessary steps to enact policies allowing for trackable, verified, anonymous misconduct complaints made through OIG's CPD Member Hotline—or another, similar system—to	The Department will consider this recommendation and the practical applications of this recommendation. These practical considerations must be made before the Department can commit to adopting this recommendation.	Ongoing	



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OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
satisfy members' reporting obligations.			
4. CPD should regularly inform members of all methods available to report misconduct (i.e., contacting BIA, COPA, or OIG; anonymously reporting to COPA or OIG; and anonymously reporting via OIG's CPD Member Hotline) and include all methods within its training materials, directives, and on its CPD Employee Services webpage.	The Department believes that this information has been communicated to members in a number of manners and at various times. That said, the Department will take steps to include this more prominently on its internal and external website, and include it in the 2024 in service training. Further, as stated above, BIA will send out a quarterly newsletter to members and will include this information as well.	6 months	
5. COPA and BIA should consistently pursue Rule 21 and/or Rule 22 violations when members fail to report misconduct or criminal activity, along with any other applicable rule violations, and should adopt or update policies and trainings as necessary to do so.	The Department agrees with this recommendation and believes that its newly revised directives that were completed with input from the Office of the Attorney General and the Independent Monitoring Team fulfill this recommendation.	Ongoing	



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Appendix B | Management Response from the Civilian Office of Police Accountability



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Management Response Form

Inquiry Title and Number: Enforcement of the Chicago Police Department's Rules Requiring Members to Report Misconduct
OIG File #:C2022-000032007

Department Name: Civilian Office of Police Accountability

Commissioner/Department Head: Chief Administrator Andrea Kersten

Date: June 6, 2023

OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
5. COPA and BIA should consistently pursue Rule 21 and/or Rule 22 violations when members fail to report misconduct or criminal activity, along with any other applicable rule violations, and should adopt or update policies and trainings as necessary to do so.	COPA appreciates OIG's feedback and takes seriously its duty to investigate allegations of an officer's failure to report misconduct. However, COPA believes it is substantially addressing the issues identified in OIG's report. COPA already has robust internal policy requiring investigators to consider all potential allegations ¹ and regularly pursues alleged failures to report misconduct where	N/A	COPA Deputy Chiefs, Director of Investigations.

¹ See COPA Policy – Fact Gathering & Investigative Process, § III.A.11 (eff. Nov. 1, 2021), available at https://www.chicagocopa.org/wp-content/uploads/2021/11/COPA-Policy_Fact-Gathering_FINAL_2021-11-01.pdf

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OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
	appropriate. ² COPA agrees there is room to improve rule citations in its reporting and will consider developing additional training toward that end.		

² As noted in OIG's report, COPA often pursues allegations regarding a failure to report under Department directives rather than Rules 21 and 22.



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