

	POLICY
	Unit: Investigations
Number:	Title: COPA Interviews – Chicago Police Department Members
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COPA Interviews – Chicago Police Department Members

PUBLIC POLICY STATEMENT

Effective policies ensure compliance with the law, promote the use of best practices, foster integrity and independence in the performance of COPA activities, and provide transparency regarding the procedures and standards for the conduct of those activities. The purpose of this policy is to ensure proper investigative actions are taken to secure, retain, and preserve evidence and to obtain relevant facts related to the allegation and/or incident in a fair, objective, and thorough manner, and without personal bias or subjective decision making.

As part of an investigation, COPA conducts interviews of persons with potentially relevant information, including Chicago Police Department members. In addition to conducting all Department member interviews expeditiously, objectively, and professionally, COPA will comply with all applicable law and collective bargaining agreement provisions addressing interview protocols (i.e., the contracts between the City of Chicago and unions representing Department members, such as the Fraternal Order of Police, Policeman’s Benevolent and Protective Association of Illinois, the Public Safety Employees Union – Unit II, and the American Federation of State, County and Municipal Employees – Council 31).

PURPOSE

This policy is intended to ensure that COPA conducts interviews of Chicago Police Department members in compliance with law and in a consistent manner that fosters public trust and promotes community confidence.

DEFINITIONS

Term	Meaning
Administrative Rights	A Department member is advised that he or she must respond truthfully to all questions posed during a COPA interview, but such statements or any evidence gathered as a result of such statements cannot be used against the member in a criminal proceeding.
Accused Department Member	A Department member against whom allegations of misconduct have been made.

Final Disciplinary Decision	The final decision of the Superintendent or his or her designee regarding whether to issue or recommend discipline after review and consideration of the investigative findings and recommendations, including after any additional investigation conducted as a result of such review. For COPA investigations, the final disciplinary decision occurs after the conclusion of the process described in Municipal Code of Chicago 2-78-130(a).
Involved Department Member	A Department member who witnessed, was directly involved in, or may otherwise have relevant information regarding an incident that is the subject of a complaint or investigation.
Witness Department Member	A Department member who, whether on or off-duty, observed or was present during an incident or may have information relevant to the subject matter being investigated, though formal action (including disciplinary, administrative, or criminal sanctions) against the member is not reasonably contemplated.

POLICIES

I. CHICAGO POLICE DEPARTMENT MEMBER INTERVIEWS

A. Recording Department member interviews:

1. All in-person interviews of Department members must be audio recorded.
2. Subject to consent, COPA may conduct interviews remotely by telephone or other web-based conferencing software.
 - a. If the Department member provides consent, COPA investigative staff will memorialize and preserve the consent in the administrative investigative file.
 - b. *See* COPA Guidance (Interview Procedures) for additional considerations surrounding use of, and potential limitations associated with, remote interviews.
3. In all instances, a Department member may speak with his or her attorney or union representative in private.
4. If recording equipment fails or otherwise does not capture a complete recording of the Department member interview, assigned investigators will notify their immediate supervisor, discuss scheduling of a follow-up interview with the Department member, and memorialize the circumstances surrounding the lack of a recording in the administrative investigative file.

- B. For all interviews of Department members, COPA investigators will advise Department members of their status in the investigation (i.e., whether the member is being interviewed as Accused or Witness/Involved) prior to the interview. The status of a Department member may change as additional information is gathered and evaluated throughout the course of an investigation.

C. For all interviews of Department members, COPA investigators will ask the following questions:

1. the identity of other persons with whom he or she has communicated regarding the incident in question, and the date, time, place, and content of such communication, subject to any evidentiary privilege under Illinois or federal law;
2. whether he or she has reviewed any audio or video footage of the incident in question, and, if so, the date, time, and place the video or audio was reviewed; and
3. whether he or she is aware of any media or social media coverage of the incident in question, and, if so, the content and source of such known media coverage.

D. For all interviews of Department members, COPA investigators will:

1. as permitted by applicable collective bargaining agreements, note on the record of the interview anytime the Department member seeks or obtains information from his or her legal or union representative, as well as the length of an “off the record” discussion between the Department member and his or her legal or union representative;
2. document, and make part of the investigative file, all requests made on behalf of a Department member to reschedule an interview; and
3. document, and make part of the investigative file, all other communications with a Department member’s union representative and/or attorney, including communications that are not originally received in writing, such as inquiries regarding the language of misconduct allegations or objections not otherwise captured “on the record” during an interview.

E. Investigators will not:

1. Ask any interviewee leading questions that suggest legal justifications for the Department member’s conduct.
2. Make statements that could discourage a Department member from providing a full account of the specific allegations.

F. Investigators will remind Department members of any restrictions on them discussing the facts of the incidents with others, including but not limited to, the following:

1. In officer-involved shooting and death investigations, where applicable, advise the Involved, Witness, and Accused, if any, Department members whether they will continue to be prohibited from discussing the facts relating to an incident after the time of the administrative interview with COPA.
 - a. Exceptions to this prohibition may include the extent to which discussion is necessary to ensure public safety, discussion upon instruction by counsel in relation to civil or criminal proceedings, or discussion related to participation in Department member wellness programs.

- b. COPA may extend the prohibition on discussion to the extent necessary to preserve the integrity of the investigation.
 - c. In no event may the prohibition extend beyond the Final Disciplinary Decision related to the investigation, if any.
 - 2. Once a Department member has been notified or otherwise becomes aware that he or she is the subject of an administrative investigation, the Department member will not review the following documents and evidence related to an incident under administrative investigation, until notified by BIA or COPA that he or she is permitted to do so, or as may be required to testify as a witness in criminal or civil proceedings:
 - a. any investigative files;
 - b. any reports (except for reports about the incident authored by the Department member); or
 - c. any other evidence, from any source, including body and dashboard camera footage (except as permitted for purposes of completing incident reports or other documentation).
 - 3. COPA investigative staff may ensure that Department members abide by requirements listed in I(F)(2) above by confirming whether the Department members have reviewed documents and evidence related to an incident under administrative investigation through questioning during an interview or, in exceptional circumstances, requesting access histories and audits trails for Departmental systems containing relevant files, reports, and other evidence related to the investigation.
 - a. Exceptional circumstances may include instances in which COPA investigative staff have reason to believe that a Department member has not abided by the requirements listed in I(F)(2) and that a Department member's representations to the contrary are false.
- G. Investigators will ensure that the Department member's counsel or representative does nothing to disrupt or interfere with the interview.
 - 1. Legal or union representatives may not answer questions for the Department member or obstruct (i.e., interrupt an oral question). However, they may interject in an interview to seek clarification regarding questions and answers, to provide additional information, as appropriate, or make objections as to issues of relevance for notation on the record.
- H. COPA will undertake best efforts to ensure that the identities of complainants are not revealed to the involved Department member prior to the Department member's interview.
 - 1. Pursuant to applicable collective bargaining agreements, COPA may be required to disclose the identity of a complainant to an Accused Department member immediately prior to interviewing the member.

- a. See COPA Guidance (Interview Procedures) for additional considerations surrounding interview scheduling, disclosure of complainant identities, and notice of allegations of misconduct to Department members.
 - b. Disclosure may not be required by COPA when interviewing a Witness Department member.
 - c. A member of COPA investigative staff may serve as the complainant in certain instances when the complainant is anonymous or pursuant to COPA Policy (Affidavits, Affidavit Overrides, and Exceptions to Affidavit Requirement).
- I. COPA will conduct all interviews in accordance with applicable law and, for members of collective bargaining units or unions, in accordance with any applicable collective bargaining agreements.
 - 1. COPA will provide certain rights (Administrative Advisements) prior to Witness/Involved and Accused Department member interviews occurring pursuant to a COPA investigation.
 - J. COPA will conduct all Department member interviews with at least two COPA members of investigative staff (or two COPA employees) present.

II. INTERVIEW SCHEDULING

- A. COPA investigative staff will schedule Department member interviews within time periods prescribed within applicable collective bargaining agreements and in accordance with COPA Policy (Timeliness Benchmarks).
 - 1. In officer-involved shooting and death investigations, COPA investigative staff will not delay Department member interviews and will schedule and conduct such interviews as soon as feasible.
- B. COPA investigative staff will document all scheduling and rescheduling efforts of Department member interviews in COPA's electronic case management system, to include uploading copies of email or other correspondence related to all scheduling and rescheduling efforts, as well as noting whether any delays were occasioned by COPA or the Department member.
- C. COPA investigative staff will engage the Department for assistance in determining whether an officer on a leave of absence (i.e., medical leave or suspension) may be compelled to appear for an interview while on leave.

III. INTERVIEW PROFESSIONALISM

- A. COPA staff will conduct themselves in accordance with COPA Policy (Personal Decorum and Demeanor) during Department member interviews.
 - 1. Though COPA interviews of Department members are often adversarial in nature, COPA staff will maintain a respectful and professional tone while interacting with the Department members, attorneys and union representatives.

EXCEPTIONS

N/A

RELATED INFORMATION

<u>Title</u>	<u>Link</u>
Affidavits, Affidavit Overrides, Exceptions to Affidavit Requirement	COPA Policy
Fact Gathering & Investigative Process	COPA Policy
Intake	COPA Policy
Major Incident Responses – Officer-Involved Shooting or Officer-Involved Death	COPA Policy
Personal Decorum and Demeanor	COPA Policy
Timeliness Benchmarks	COPA Policy
Interpreter Services	COPA Guidance
Interview Procedures	COPA Guidance
Processing Anonymous Complaints	COPA Guidance

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