

	POLICY
	Unit: Investigations
Number:	Title: Sexual Misconduct Investigations
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Sexual Misconduct Investigations

PUBLIC POLICY STATEMENT

Incidents of Sexual Misconduct can have profound implications for victims and their families. Victims may be reluctant to report instances of Sexual Misconduct involving police for a variety of reasons, including humiliation, clear power imbalances, and fears or threats of retaliation. Given the vulnerability of these victims, COPA seeks to incorporate victim centered and trauma-informed investigative practices in policies that also 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.

COPA recognizes the need to help victims of Chicago Police Department member Sexual Misconduct through the trauma and barriers to reporting by working to provide a physically, psychologically, and emotionally safe place to talk about their experience, which may include the presence of an advocacy or support person.

COPA seeks to prioritize minimizing the impact of trauma on victims of Department member Sexual Misconduct by providing specialized training in trauma-informed approaches to all members of investigative staff and assignment of Sexual Misconduct investigations to staff well suited for investigations involving vulnerable individuals.

PURPOSE

This policy details the procedure by which COPA will ensure complaints and Notifications pertaining to incidents of Sexual Misconduct by Department members are investigated in a victim centered and trauma-informed manner.

DEFINITIONS

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Term	Meaning
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).
Findings	<p>At the conclusion of an investigation, COPA will make an assessment as to whether there is sufficient evidence to prove or disprove the alleged misconduct. COPA categorizes its findings as follows:</p> <ul style="list-style-type: none"> • Sustained – where it is determined the allegation is supported by a preponderance of the evidence; • Not Sustained – where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence; • Unfounded – where it is determined by clear and convincing evidence that an allegation is false or not factual; or • Exonerated – where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper. <p>For the purposes of COPA’s investigations:</p> <ul style="list-style-type: none"> • A ‘preponderance of evidence’ is evidence indicating that it is more likely than not that a proposition is proved. For example, if the evidence establishes that it is more likely that the misconduct occurred, even by a narrow margin, then the preponderance of the evidence standard is met. • ‘Clear and convincing evidence’ is a higher standard than a preponderance of the evidence but lower than the ‘beyond a reasonable doubt’ standard required to convict a person of a criminal offense. ‘Clear and convincing evidence’ is a degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that a proposition is proved.
COPA Investigative Squad	COPA staff assigned to carry forward investigative efforts after the initial intake of complaints and Notifications by COPA’s Intake Unit.
Notification	Alerts from the Department, made pursuant to Department directives, of Major Case Incidents, incidents of Department-member involved domestic violence, and other matters not involving death or serious injury, such as in-custody incidents involving attempted suicide, prisoner escape, and damage to lock-up facilities, even when no allegation of misconduct is made.
Memorandum of Understanding/ Agreement (MOU/MOA)	Because COPA policy alone cannot bind the conduct of external agencies, a MOU/MOA outlines an agreement between COPA and external agencies for handling certain protocols and memorializes the agencies’ common objectives.
Personal Representative	A person, typically a friend or relative, providing the victim personal assistance and emotional support.

Sexual Misconduct	<p>Any behavior by a Police Department member, occurring on or off-duty, that:</p> <ul style="list-style-type: none"> • takes advantage of the Police Department member’s position in law enforcement to misuse authority and power (including force) in order to commit a sexual act, initiate sexual contact with another person, or respond to a perceived sexually motivated cue (from a subtle suggestion to an overt action) from another person; • involves any sexual communication or behavior by a Police Department member that would likely be construed as lewd, lascivious, inappropriate, or conduct unbecoming of a member of the Police Department; or • involves any attempted or completed act by a Police Department member of nonconsensual sexual conduct or nonconsensual sexual penetration or any attempted or completed act by a Police Department member of criminal sexual assault or criminal sexual abuse, as defined in Sections 11-0.1, 11-1.20 through 11-1.40, 11-1.50, and 11-1.60 of the Illinois Criminal Code of 2012.
Special Victims Squad (SVS)	<p>A COPA Investigative Squad comprised of appropriately experienced investigators who receive specialized training in domestic and sexual violence, including trauma-informed interview training.</p>
Victim Advocate	<p>Victim Advocates are trained to support victims of crime by providing emotional support, victims’ rights information, and facilitating access to resources or other organizations, such as social service agencies.</p>

POLICIES

I. INTAKE AND JURISDICTIONAL DETERMINATIONS

A. Pursuant to COPA Policy (Intake), all complaints or Notifications involving Department-member involved Sexual Misconduct will be immediately assigned to COPA investigative staff specifically designated as responsible for the investigation of such incidents.

1. COPA investigative staff receiving the complaint or Notification will:

a. Take reasonable steps to obtain identifiers for the victim, including name and contact information, the date and time of the alleged incident, identifiers for the accused Department member(s), and seek sufficient information to understand the nature of the complaint and position COPA to make a jurisdictional determination.

i. Reasonable steps include, but are not limited to, database searches to confirm victim identifiers and contact information, gathering and reviewing available Departmental reports, assignment histories, GPS records, and audio and video evidence, if applicable, and phone outreach, mail, social media contact, or other reasonable methods of establishing initial lines of communication with the victim.

b. Immediately notify the supervisor (or designee) assigned to the COPA Investigative Squad designated as responsible for investigation of Sexual Misconduct incidents of the complaint or Notification (i.e., the SVS). *See*

also COPA Guidance (Domestic Violence and Other Incidents Involving Vulnerable Individuals).

2. The SVS supervisor (or designee) will:
 - a. review the information gathered regarding the complaint or Notification;
 - b. determine whether the matter is within COPA's jurisdiction in accordance with COPA Policy (Intake); and
 - i. Reaching this determination may involve conducting some additional preliminary investigative efforts, such as obtaining and reviewing Departmental reports, audio, and video materials.
 - c. engage the Department's Bureau of Internal Affairs (BIA), as necessary.
 - i. COPA conducts administrative investigations into allegations of police misconduct, focusing on whether the conduct of a Department member falls within the Department's rules and regulations. At the conclusion of an investigation, COPA may recommend that the Department take disciplinary action against its employee.
 - ii. BIA is authorized to conduct criminal investigations of incidents of Sexual Misconduct. BIA's investigation may result in the filing of criminal charges against a Department member by an appropriate prosecutorial agency, typically the Cook County State's Attorney's Office (CCSAO).
 - iii. Consistent with COPA's jurisdiction, after conferring about the details of a particular criminal Sexual Misconduct investigation involving a Department member, COPA and BIA may jointly agree that BIA may conduct the administrative investigation into allegations of Sexual Misconduct when they jointly determine that doing so avoids unnecessary disruption to the victim. Factors in this determination may include, but are not limited to, emergent conditions necessitating an immediate statement from the complainant without adequate time to initiate the joint interview process (*see* II below), administrative jurisdictional or investigative challenges, and/or approved felony charges.
- B. If the SVS supervisor (or designee) determines that the case is properly within COPA's jurisdiction, the SVS supervisor (or designee) will consider the totality, nature, and severity of the allegations involved and determine whether to assign the investigation to SVS investigative staff or to a non-SVS COPA Investigative Squad for further investigation.
 1. Examples of cases that may be assigned to a non-SVS COPA Investigative Squad include, but are not limited to, incidents involving invasive searches of a complainant's person by a Department member that, upon initial review, do not appear to involve sexual gratification, as well as instances limited to sexual communication(s) or behavior by a Department member that would likely be construed as lewd, lascivious, inappropriate, or conduct unbecoming.

II. JOINT INTERVIEWS

- A. The SVS supervisor (or designee) will determine if the Department or another law enforcement and/or prosecutorial agency is conducting a parallel criminal investigation into the allegations of Sexual Misconduct.
 1. If there is a parallel criminal investigation, the SVS supervisor (or designee) will inform the victim of the opportunity to participate in a joint interview with COPA, the Department, and the CCSAO.
 - a. The SVS supervisor (or designee) will ensure that the victim is provided with sufficient information addressing how the joint interview is anticipated to proceed, including but not limited to, the role and purpose of each interview participant, the interview setting, intention to record the interview, any advisements to be read prior to commencing the interview, and participation of a Personal Representative, Victim Advocate, or legal counsel.
 - b. The SVS supervisor (or designee) will memorialize the victim's acceptance or declination of participation in a joint interview in the electronic case management system.
 - c. If the parallel criminal investigation involves law enforcement or prosecutorial agencies other than, or in addition to, the Department and CCSAO, the SVS supervisor (or designee) will engage those agencies to bring awareness to COPA's administrative investigation and determine willingness to engage in a joint interview.
 2. If there is a parallel criminal investigation and the complainant agrees to a joint interview, the SVS supervisor (or designee) will make the appropriate notifications and coordinate scheduling the interview in accordance with protocols detailed in the MOU/MOA titled Joint Sexual Misconduct Investigations.
 - a. The MOU/MOA outlines an agreement between COPA, the Department, and the CCSAO for protocols in handling Sexual Misconduct Investigations and memorializes the agencies' common objective of investigating incidents in a manner that prioritizes minimization of additional stress or trauma to the victim during the investigative process. Because COPA policy does not bind Department or CCSAO conduct, and vice versa, the MOU/MOA serves to uniformly guide each agency's role in the initial stages of an investigation.
 3. Pursuant to the MOU/MOA, in advance of and following joint interviews, COPA will seek to meet in-person or otherwise collaborate remotely with representatives of the participating agencies to:
 - a. share known information regarding the incident;
 - b. work with the advocacy community to ensure the health, safety, and wellness of the victim, which may include victim safety planning, any medical, mental health, support/social service needs for the victim; and

- c. develop investigative plans, strategies, next steps, and assignments for continuing the investigation.

III. TRAUMA-INFORMED APPROACH

A. COPA investigative staff will ensure that all Sexual Misconduct investigations are handled in a victim centered and trauma-informed manner. This includes, but is not limited to, conducting interviews using a trauma-informed approach, ensuring the victim has been given COPA's Domestic & Sexual Violence Resource Guide, and allowing the victim to have an advocate present during an interview upon request.

1. As it pertains to interviews, a trauma-informed approach seeks to:

- a. Maximize the amount of reliable information provided by the victim and minimize additional stress or trauma to the victim.
- b. Keep the number of interviews of a victim to a minimum (i.e., typically, only one).
- c. Avoid duplicative questioning and limit the number of interviewers physically present during the interview.
- d. Not expect or demand a chronological narrative, but rather should begin with open-ended questions that allow the victim to share what they are able to share about their experience and communicate details in his/her own words.
- e. Obtain clarifying information to better understand the victim's experience, determine potential evidence, or additional information that may be necessary to further the investigation.
- f. Discuss and explain next steps, timeline, and future contact, including acknowledging the victim may remember additional detail over time, and how to contact the interviewer if they remember additional detail.

2. Though the Domestic & Sexual Violence Resource Guide, which is available to all members of investigative staff, or via other means of referral, COPA will ensure that victims have access to contact information for a variety of local agencies and hotlines to engage in confidential conversations, access assistance in locating a shelter, obtain counseling services, and legal and/or medical assistance, as well as seek an order of protection through the judicial system.

IV. CONCLUSION OF SEXUAL MISCONDUCT INVESTIGATIONS

A. Pursuant to the MOU/MOA and through COPA's electronic Case Management System (CMS) or other reasonable means, COPA will ensure that, within 10 days of the Final Disciplinary Decision of each complaint of Sexual Misconduct against a Department member alleging conduct against a non-Department member, the Deputy Inspector General for Public Safety is provided the complete administrative file, subject to applicable law.

B. For all closed investigations involving a complaint or Notification of Sexual Misconduct involving a Department member, COPA will ensure that the Deputy Inspector General for

Public Safety has appropriate access to the complete administrative file through CMS or other reasonable means.

- C. In addition to requirements addressing investigative resolutions, required notifications, and dissemination of Final Summary Reports, which are detailed in COPA Policy (Timeliness Benchmarks) and COPA Policy (Intake), COPA will attempt to notify the victim, either directly or through their Personal Representative, Victim Advocate, or legal counsel, that COPA's investigation of the Sexual Misconduct incident has concluded and will provide as much information regarding the outcome of the investigation as permissible by law.

EXCEPTIONS

N/A

RELATED INFORMATION

<u>Title</u>	<u>Link</u>
Intake	COPA Policy
Fact Gathering & Investigative Process	COPA Policy
Timeliness Benchmarks	COPA Policy
Domestic Violence and Other Incidents Involving Vulnerable Individuals	COPA Guidance
Domestic & Sexual Violence Resource Guide	COPA Reference
Joint Sexual Misconduct Investigations	Memorandum of Understanding

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