

	POLICY
	Unit: Agency-Wide
Number:	Title: Investigative File Maintenance
Effective Date: 2/8/22	Supersedes: 3.1.9 (8/19/19)

Investigative File Maintenance

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.

COPA is committed to maintaining investigative records in a uniform and comprehensive manner for the benefit of its own employees and external stakeholders. COPA seeks to build and maintain public trust through:

- **Consolidation.** All work product and materials related to any given investigation will be accessible in COPA’s electronic case management system.
- **Digitization.** By the conclusion of each COPA investigation, all materials related to that investigation will be available in a digital format, and thus better protected from loss or destruction.
- **Uniformity.** COPA’s investigative file keeping system will be consistent throughout the entire organization.

PURPOSE

The purpose of this policy is to detail expectations for consistent inclusion and organization of administrative investigative file materials by COPA investigative staff, as well as non-investigative staff who support investigative efforts or otherwise handle files.

DEFINITIONS

Term	Meaning
CLEAR	The Citizens and Law Enforcement Analysis and Reporting system developed and managed by the Chicago Police Department.

COLUMN CMS	The web-based investigative Case Management System (CMS) developed, managed and maintained by appropriate personnel from the City, the Department, and COPA.
Digital Workspace	<p>Through issuance of COPA computer hardware and individual licenses allowing access to Microsoft Office 365 applications, such as Word, Excel, PowerPoint, OneDrive, SharePoint, and others, COPA staff is permitted access to the following digital storage areas in order to receive, generate, and preserve investigative work product for inclusion in COLUMN CMS:</p> <ul style="list-style-type: none"> • Remotely accessible cloud and internal COPA computer network digital storage space allocated to COPA staff. • Local digital storage space accessible on COPA-issued laptop/tablet computers and desktop computers.
Final Summary Report (FSR)	<p>As defined by the Municipal Code of Chicago 2-78-100, the report summarizing an investigation conducted by COPA concerning an incident of alleged police misconduct or another incident that is within COPA's jurisdiction, which is made publicly available and contains, as applicable:</p> <ul style="list-style-type: none"> • a description of the Department members and subjects involved in the incident; • the date, time and location of the incident; • a description of the allegations and applicable rules; • a narrative summary of the incident; • a narrative summary of the investigation; and • COPA's findings and conclusions.
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.

Major Case Incident	<p>Any of the following incidents:</p> <ul style="list-style-type: none"> • All firearm discharges by Department members. • Any death resulting from a motor vehicle accident or collision, if the Department member was engaged in law enforcement activity involving the individual or the individual's vehicle in the process of apprehension or attempt to apprehend. • Death or serious injury while in custody or detained. • Other weapons discharges, equipment usage or incidents resulting in serious injury or death. • Any incident, as determined by the Chief Administrator (or designee), requiring an in-person response by on-call personnel or members of COPA's Public Information Section.
Original Document	A document which is not a facsimile or a photocopy and bears an original marking or signature.
Portable Storage Device	A non-Cloud based, non-COPA-network digital storage device, such as a CD, DVD, or portable hard drive (e.g., flash drive, thumb drive, etc.).
Quality Analysis Review (QAR) Report	The QAR Report is a tool utilized by the Quality Management Unit to evaluate individual investigations and provide COPA's Investigations Section with information about how well maintenance of the investigative file, collection and analysis of evidence, and summary work product reflects COPA's expectations for quality, timeliness, and objectivity.
True Copy	An unaltered copy of a document or record in either physical or digital format.

POLICIES

I. ADMINISTRATIVE INVESTIGATIVE FILES

A. COPA will maintain thorough and complete administrative investigative files. Such administrative investigative files will include:

1. Documentation of all evidence gathered by the assigned investigative team, including names, phone numbers, and addresses of witnesses to the alleged misconduct.
 - a. In situations in which there are no known witnesses, the file will specifically state this fact.
 - b. In situations in which witnesses were present but circumstances prevented the investigative team from collecting information from those witnesses, the file will state the reasons why.
2. All available identifying information for anyone who refuses to provide a statement;
3. Documentation, to include a written summary, if applicable, of each interview conducted and the recording of those interviews, if available;

4. The names of all Chicago Police Department members who have been identified as witnesses to the alleged misconduct;
 5. COPA's narrative description and evaluation of the alleged misconduct, based on its review of the evidence gathered, including a determination of whether the Department member's actions appear to be within Department policy, procedure, regulations, orders, or other standards of conduct required of Department members;
 - a. COPA utilizes FSRs to incorporate this information in the administrative investigative file. *See also* COPA Policy (Final Summary Report).
 6. In cases where material inconsistencies exist between complainant, Department member, and witness statements, explicit identification of the inconsistencies, including a description of the evidence reviewed and written credibility findings;
 7. If a Department member deployed a weapon, documentation of whether the Department member's certification and training for the weapon were current;
 8. All Department member original statements, as well as any amendments or clarifications to the original statement, and any subsequent statements; and
 9. An explicit identification of each allegation and the recommended finding for each allegation of misconduct in an investigation.
- B. COPA's administrative investigative files are preserved within CMS. *See also* COPA Policy (CLEAR and COLUMN CMS Systems).¹
1. COPA staff will incorporate administrative investigative file materials, including the information listed under I(A) above, in CMS by including detailed notes, uploading all evidence, reports, and records pertinent to the alleged misconduct, and populating all system fields based on information available, such as allegation details and category descriptions, as well as, for investigations that reach Findings, a FSR summarizing COPA's investigation and disciplinary outcome. *See also* COPA Policy (Final Summary Report).
- C. COPA utilizes secure cloud storage built for government purposes and investigative files and information uploaded are backed up by the City of Chicago's Department of Assets, Information and Services.

II. FILE COMPONENTS – ATTACHMENTS & WORKING MATERIALS

- A. COPA administrative investigative files are composed of Attachments and Working Materials.
- B. Attachments consist of the following types of materials:

¹ On February 11, 2019, COPA ceased opening investigations in CLEAR and began opening all new investigations in CMS. As of the effective date of this policy, COPA remains in the process of transitioning away from CLEAR as a repository for COPA investigative records and, once complete, all COPA investigative records will be maintained in CMS.

1. Evidence. This includes, but is not limited to, statements (audio and transcripts), case and arrest reports, medical records, relevant video, court documents, and records received in response to COPA requests and subpoenas.
 2. Investigative Reports. An investigative report describes a substantive event or investigatory action. For example, an interview, scene response, the acquisition or receipt of documents, or information provided by a complainant or witness.
 3. Other documents that show COPA's investigatory steps. This includes, but is not limited to, letters to/from the complainant (family member or legal counsel) and/or involved Department member(s), letters received related to the investigation, external request forms, and subpoenas.
- C. Working Materials consist of internal process documents, investigative notes/work product documents, and/or draft documents.
1. Materials that otherwise qualify as Attachments are not Working Materials.
 - a. Examples of Working Materials include, but are not limited to, investigator notes, internal request forms, background research, draft FSRs, interview outlines/notes, and pertinent email communications with external parties reflecting efforts to advance an investigation (i.e., Department member, complainant, or witness interview scheduling efforts, inquiries regarding the status or production of requested records, etc.).
 2. Working Materials are not limited to those materials generated only by the investigator assigned.
 - a. For example, if a supervisor, or any other COPA employee (i.e., Evidence Specialist, Digital Forensic Analyst, etc.), works substantively on an investigation, his/her notes, if any exist, will be incorporated in the file as Working Materials prior to the conclusion of the investigation.
 - i. COPA employees working substantively on an investigation in support of the assigned investigative team will provide Working Materials generated to the assigned investigative team for incorporation in the investigative file. As necessary, the assigned investigator will communicate with other COPA employees working substantively on the investigation to ensure that Working Materials are produced.
- D. The file storage module within CMS contains a preset file structure for each Log #, which includes folders labeled "Working," "Final," and "Trash."
1. COPA staff will store all digitized Working Materials for the administrative investigative file in the Working folder.
 2. COPA staff will store all digitized Attachments for the administrative investigative file in the Final folder.

3. COPA staff will utilize Trash as a repository for documents that are either not relevant to the investigation or otherwise not to be considered relative to the investigation.
 - a. Items stored in Trash will be accompanied by a note in CMS detailing the rationale for excluding the material.
4. CMS users do not have the ability to delete any materials after they have been uploaded to the file storage module, regardless of whether the materials are stored in the folders labeled Working, Final, or Trash.

III. HANDLING PHYSICAL MATERIALS

- A. Though COPA digitizes all administrative investigative file materials for inclusion in CMS, COPA staff will also retain certain Attachments and/or Working Materials in physical form.
- B. Physical Materials consist of any paper documents or physical media related to an investigation, such as:
 1. Hardcopy Working Materials (i.e., handwritten notes);
 2. copies of physical media, such as discs or Portable Storage Devices; or
 3. Original Documents (i.e., documents with original signatures).
- C. COPA staff will maintain Physical Materials within filing folder(s) clearly labeled with the unique tracking number for the investigation (i.e., Log #).
 1. If multiple folders are necessary, label each additional folder consecutively (i.e., Log #, 1 of 2, 2 of 2, etc.).
 2. As necessary, folders may be stored in boxes labeled with the Log #.
 3. In order to ensure safekeeping, discs or Portable Storage Devices must, if feasible, be stored in a sealable folder.
 - a. For example, the cover of each disc should contain similar information, if feasible (i.e., Log #, 1 of 2, 2 of 2, etc.). To the extent possible, include a short narrative description of what is on the disc (i.e., “3rd Party video from [location] on [date]).
- D. While an investigation is pending, COPA staff will maintain Physical Materials in appropriately and clearly labeled files inside of a locked file cabinet.

IV. DIGITAL WORKSPACES

- A. The CMS file storage module is a repository for Attachments and Working Materials and does not function as a Digital Workspace (i.e., once uploaded to the file storage module, records cannot subsequently be modified or edited). Therefore, during the pendency of an investigation, COPA staff will utilize Digital Workspaces (i.e., COPA workstations, Network Drives, or OneDrive/SharePoint) to create, share, and/or digitally store Working Materials

and Attachments in advance of transferring (i.e., uploading copies) to the CMS file storage module.

1. COPA staff will transfer Attachments and Working Materials promptly to CMS.
 - a. Promptly is interpreted to mean within the same day of receipt, creation, or finalization of Attachments and Working Materials, though exceptional circumstances, such as the following, may apply:
 - i. Materials will be transferred no later than the conclusion of the next business day due to Major Case Incident responses, investigative field work or technological impediments making CMS inaccessible, competing priorities dictated by supervisory staff, or other time constraints related to assigned work hours.
 - ii. Certain Working Materials that are continually edited or updated during the pendency of an investigation (i.e., draft FSRs, pertinent unresolved email threads, timelines and outlines updated as new information is gathered, etc.) will be transferred prior to submission of the investigation to the assigned investigator's chain of supervision for review and closure.
 - b. For additional benchmarks applicable to administrative investigations, *see* COPA Policy (Timeliness Benchmarks).
2. The requirements of IV(A)(1) only apply to documents generated/collected during a given investigation. It does not apply to documents otherwise stored on COPA Digital Workspaces that are used for office-wide purposes.

V. RECORDKEEPING

- A. There is no requirement that COPA staff create copies of media on discs if that media is otherwise stored digitally in CMS.
- B. COPA staff should not, as a matter of course, print redundant copies of Attachments or Working Materials included in CMS for purposes of inclusion as Physical Materials, particularly if the materials were originally transmitted to COPA in digital format. COPA staff may elect to do so for their own purposes but, generally, COPA staff should only print out materials to the extent necessary.
 1. True Copies of materials, either digital or physical, already incorporated in the administrative investigative file may be discarded.
 - a. For example, if an investigator printed out a transcript to review it but made no notes or highlighting on it, that document remains a True Copy and may be discarded.
 2. Minimizing printed copies of file materials serves to decrease risk of unintentional dissemination of sensitive information through lost, unsecured, or otherwise misplaced copies.

- C. COPA staff will not comingle handwritten notes related to separate investigations.
- D. COPA staff will clearly label handwritten notes related to an investigation with the subject matter of the notes and the date they were taken (e.g., “Meeting with Supervising Investigator John Doe re: Log #####-##### on 1/1/21”).
- E. In addition to digitizing for inclusion as Working Materials in CMS, COPA staff will retain and store all original handwritten notes reflecting investigative actions, including copies of printed materials with handwritten notes, as Physical Materials.
- F. COPA will retain all investigative file materials (both digital and physical) in accordance with all applicable laws.
- G. COPA’s Information Systems Section will provide support to COPA staff in uploading investigative records to CMS pursuant to the goal of fully digitizing investigative files.

VI. RE-ASSIGNMENT OF INVESTIGATIONS

- A. In the event a case is transferred between investigators and/or supervisors during the pendency of an investigation, the formerly assigned investigator must ensure that all Attachments and Working Materials have been digitized and uploaded to CMS, as well as provide any Physical Materials to the newly assigned investigator and/or supervisor and note delivery in CMS.

VII. REVIEW CHAIN AND CONCLUSION OF INVESTIGATIONS

- A. Upon submitting an administrative investigative file to the review chain through CMS, the assigned investigative team will:
 - 1. Ensure that all Attachments and Working Materials have been scanned and/or uploaded to CMS as part of the administrative investigative file.
 - 2. Confirm completeness of the administrative investigative file.
 - a. The assigned investigative team will ensure that all fields in CMS, including but not limited to allegations, category codes, incident location identifiers, conflict forms, case details, and involved party details, are complete and accurate.
 - b. The assigned supervisor may meet with the assigned investigator to review the file to ensure that it is complete/accurate and complies with this Policy and other related COPA policies.
 - i. For example, if through regular supervisory case conferences with the assigned investigator the supervisor has sufficient prior familiarity with the materials and information included in the file, a meeting with the assigned investigator may not be merited. Alternatively, if the investigation is complex and/or lengthy in nature, a meeting with the assigned investigator may be merited to confirm completeness of the file.

- c. If requested, the assigned investigator will provide the investigative review chain access to Physical Materials.
 - 3. Ensure that the existence and location of any administrative investigative file materials stored outside of CMS (i.e., Physical Materials) is noted in CMS.
- B. Upon submitting an administrative investigative file to COPA’s records clerk for closure through CMS, the assigned investigative team will:
 - 1. Ensure that the appropriate fields in CMS reflect submission of the file to the records clerk for closure.
 - 2. Deliver any Physical Materials to the records clerk and note delivery in CMS.
- C. Upon receipt of an administrative investigative file through CMS and related Physical Materials, if any, the COPA records clerk will take final closure steps (i.e., perform a cursory review to confirm that the file has been submitted in a manner consistent with the expectations detailed in this Policy, issue required correspondence regarding closure, and update CMS to reflect the appropriate status). *See also* COPA Policy (Timeliness Benchmarks).
 - 1. The steps above may be repeated in the event an investigation is returned to the assigned investigative team for additional investigative activity.

VIII. QUALITY ASSURANCE

- A. COPA will leverage information reflected in Quality Analysis Review (QAR) Reports generated by COPA’s Quality Management Unit to assess COPA staff’s compliance with this Policy.
- B. The Chief Administrator may direct COPA’s Policy, Research and Analysis Division to conduct periodic compliance reviews to identify risks and trends relative to the quality of COPA’s administrative investigative files relative to this Policy and make recommendations addressing performance and operational improvements.

EXCEPTIONS

N/A

RELATED INFORMATION

<u>Title</u>	<u>Link</u>
CLEAR and COLUMN CMS Systems	COPA Policy
Intake	COPA Policy
Fact Gathering & Investigative Process	COPA Policy
Final Summary Report	COPA Policy
Quality Assurance	COPA Policy

Timeliness Benchmarks	COPA Policy
-----------------------	-----------------------------

ADDITIONAL SEARCH OPTIONS

<u>Title</u>	<u>Link</u>
Return to [Section Description]	[LINK]
Proceed to [Next Section Description]	[LINK]
Return to Keyword Search	[LINK]
Return to Table of Contents	[LINK]