



COPA Recommendations Regarding the CPD Policy on the Prohibitions of Sexual Misconduct

Project Overview

On May 31, 2024, COPA provided feedback to the Chicago Police Department (CPD) regarding the Prohibitions of Sexual Misconduct (G08-06) policy, effective June 21, 2023. COPA provided recommendations through two letters, first in an initial preliminary review of the policy to provide CPD with expedited feedback and a more comprehensive follow-up review of the policy that, per ordinance, requested a response from CPD.

COPA's Policy Research and Analysis Division (PRAD) initial review of the policy recommended CPD further develop the policy's guidelines regarding relationships between Department members and members of the community and address inappropriate or nonconsensual relations that occur on or off duty. Second, PRAD's comprehensive review of the policy further examined COPA investigations of sexual misconduct and reviewed CPD policies to provide detailed feedback regarding specific Department prohibitions, procedures, and training. The Superintendent of Police had 60 days to respond to COPA's policy recommendations, but this was extended by one month in this case due to an overlap period of special preparations for the Democratic National Convention in Chicago. An approximate timeline of key past events and expected future events is presented below, as well as a list of key policies and documents related to this work.

Timeline

- **September 2023:** PRAD began its review of the policy by speaking with internal staff, reviewing relevant COPA cases, and addressing immediate concerns with the policy.
- **September 29, 2023:** PRAD completed its initial review of the policy by submitting a preliminary recommendation letter to CPD.
- **October 2023 – May 2024:** PRAD performed a comprehensive review of the policy, further examining COPA cases and exploring research and best practices.
- **May 31, 2024:** PRAD completed its comprehensive review and COPA's Chief Administrator sent a recommendation letter directly to CPD's Superintendent of Police.
- **August 30, 2024:** CPD's General Counsel sent a response to the recommendation letter to COPA's Chief Administrator, which included a letter, response matrix breaking down each recommendation, and a preliminary revision to G08-06. The letter and response matrix are included below. Per CPD request, the preliminary revision to G08-06 is not included below.

- **December 6, 2024:** COPA completed its review of CPD’s response to COPA’s recommendations by submitting a response to clarify and comment on specific items for CPD to address.

Key Policies and Documents

- [G08-06, Prohibitions of Sexual Misconduct \(effective June 21, 2023, to present\).](#)
- [2023-09-29 COPA Preliminary Feedback on CPD Prohibitions of Sexual Misconduct \(G08-06\).](#)

Last updated: 12/9/2024



May 31, 2024

Larry B. Snelling
Superintendent of Police
Chicago Police Department
3510 South Michigan Avenue
Chicago, Illinois 60653

Re: Chicago Police Department Prohibitions of Sexual Misconduct (G08-06)

Dear Superintendent Snelling,

The Civilian Office of Police Accountability (COPA) has completed a comprehensive review of the Chicago Police Department's (CPD) policy on Prohibitions of Sexual Misconduct (G08-06), effective June 21, 2023, as a follow up to COPA's initial review of the policy.¹ As in its initial review, COPA acknowledges CPD's efforts to define, identify, and outline prohibitions of sexual misconduct by Department members. COPA is moved to further comment on the policy considering all that has been learned from past COPA investigations where Department members engaged in sexual misconduct.

Since its initial review, COPA has further examined cases of sexual misconduct and CPD policy to provide detailed feedback regarding zero-tolerance language, police lock-up facilities, specific prohibitions, conflicts of interest, pat down procedures, Department resources and information systems, vulnerable populations, victim advocacy, early warning signs, peer intervention, and member training. COPA has explored law enforcement policies and procedures prohibiting sexual misconduct, incorporated research and best practices for law enforcement agencies to address sexual misconduct of its members, and met with community members for input on the Department's policy.

COPA provides the following recommendations to further improve the Prohibitions of Sexual Misconduct policy:

- 1. Revise the policy's "zero-tolerance" language around sexual misconduct to align with realities of the disciplinary system more closely.** Section II of the policy states the Department has a zero-tolerance stance for sexual misconduct by members and acknowledges a "zero-tolerance standard" established by the Prison Rape Elimination Act (PREA) in Section III. The specific meaning and implementation of zero-tolerance is not clear in CPD's policy, nor is it clear in PREA itself. The Department of Justice's final rule adopting national standards, as required by PREA, is the clearest approach that we were able to find in policy regarding zero-tolerance for sex-related violations by employees of criminal justice organizations. This final rule implements zero-tolerance as "discipline for violating agency policies regarding sexual abuse, with termination the presumptive discipline."² That standard makes termination the presumptive

¹ See COPA letter to CPD regarding the Prohibitions of Sexual Misconduct (G08-06) policy on September 29, 2023.

² National Standards to Prevent, Detect, and Respond to Prison Rape. Final Rule 28 CFR Part 115, Federal Register, Rules and Regulations (77)119, Department of Justice. June 20, 2012.

discipline, but in fact leaves room for discipline less than termination. This approach arguably suggests a system that is more tolerant of some types of sexual misconduct than others. This interpretation of zero-tolerance may be unavoidable currently, due to the rights of employees and the requirements for investigative and disciplinary procedures for violations of agency policy. Importantly, the DOJ standard narrowly applies to “sexual abuse” – which CPD defines based on Illinois Statute – and this does not apply to “sexual misconduct” as stated more broadly in CPD’s policy.³ The CPD policy should make clear what its implementation of zero-tolerance means, specifying if and when termination is in fact the presumptive discipline for sustained allegations of sexual misconduct, and what other types of discipline may apply if termination is not the disciplinary outcome. CPD may consider whether the term “zero-tolerance” is meaningful and transparent in this context due to the requirements of the disciplinary process (e.g., progressive discipline, or possible reductions in discipline in later parts of the disciplinary process). For example, the International Association of Chiefs of Police executive guide for addressing sexual offenses and misconduct by law enforcement states:

“[w]hen an allegation of sexual misconduct is sustained but termination is not warranted, demotions, re-assignment, and/or unpaid leave are possible administrative sanctions the law enforcement executive can impose. [...] Discipline short of termination should include a warning of termination for any subsequent misconduct and be referenced in writing as part of an employee’s regularly scheduled review.”⁴ Additionally, the Society for Human Resource Management’s most recent guidance on sexual harassment policies states that “the mandatory minimum discipline is a written reprimand. The discipline for very serious or repeat violations is termination of employment. Persons who violate this policy may also be subject to civil damages or criminal penalties.”⁵

2. **Develop a comprehensive Department policy with procedures that fully address lock-up facilities.** Section III, Subsection C states the Prison Rape Elimination Act applies to any police lock-up facility, but the Department does not have a directive for police lock-up facilities. The Department should develop a lock-up facility directive to consolidate the various lock-up facility policies and procedures found in the field arrest procedures, restraining arrestees policy, strip search procedures, and lock-up and detention facility directives.⁶
 - a. **The lock-up facility directive should elaborate on the proper procedure for strip searches.** This practice has been an issue in various misconduct allegations in lock-up facilities.⁷ The lock-up policy should clearly state the appropriate justifications for a strip

³ See G08-06 (IV)(K), Prohibitions of Sexual Misconduct (effective June 21, 2023 to present).

⁴ International Association of Chiefs of Police. *Addressing Sexual Offenses and Misconduct by Law Enforcement: Executive Guide*. June 2011.

⁵ Society for Human Resource Management. *Sexual Harassment Policy and Complaint/Investigation Procedure*. Accessed April 12, 2024.

⁶ See G06-01-02, Restraining Arrestees (effective December 8, 2017 to present); G06-01-03, Conducting Strip Searches (effective December 8, 2017 to present); S06-01-07, Required Lockup Standards and Reporting (effective February 29, 2012 to present); S06-01-02, Detention Facilities General Procedures and Responsibilities (effective January 28, 2022 to present); G06-01-01, Field Arrest Procedures (January 28, 2022 to present).

⁷ See COPA Logs 2020-0000651 and 2021-0003966.

search, outline at what point that justification must be made and documented, identify where strip searches should be conducted in the facility (e.g. an isolated area), outline how to obtain written authorization, and explain when and how to complete a required strip search report.

- b. The lock-up facility directive should include information on how individuals in police lock-up facilities can report sexual misconduct.** For example, the model policy on sexual misconduct developed by the Department of Justice Office of Community Oriented Policing Services states police lock-up facilities should offer educational and reporting materials regarding sexual harassment, sexual abuse, and retaliation to detained individuals upon arrival at a police facility. The facility should provide multiple ways for individuals to report sexual misconduct (e.g., inform staff verbally or in writing, have a friend or family member report on the detained individual’s behalf, or have the ability to request to report during a medical consultation). Police facilities should also offer up-to-date information on community resources for sexual assault when individuals report sexual misconduct, such as local rape crisis centers and mental health care.⁸
- 3. Revise the terms in Section IV and Section V to provide additional clarity and reorganize the terms according to type of member interaction.**
 - a. Introduce the definitions in Section IV as “acts defined in the Illinois Criminal Code” and other related legal sources** (e.g., Municipal Code of Chicago, United States Code, United States Department of Justice).⁹
 - b. Classify the prohibitions of sexual misconduct for on duty and off duty interactions with members of the community in Section V.** For example, the model policy for sexual harassment and misconduct presented in the Department of Justice Office of Community Oriented Policing Services report clearly outlines the prohibited conduct separately by on duty and off duty interactions (See Attachment A).¹⁰
- 4. Elaborate on the specific prohibitions for Department member conflicts of interest with members of the community in Section V.** COPA has investigated cases where Department members engaged in a sexual relationship with a victim of a crime during an ongoing investigation.¹¹ There are inherent (and sensitive) power, vulnerability, and trust dynamics at play in situations where Department members engage with members of the community, particularly as victims, witnesses, suspects, and detainees. A member’s disregard for these dynamics in seeking personal relationships or other gains jeopardizes public trust and the integrity of investigations. Specifically, whether the relationship was consensual can be

⁸ Copple, James E., and Patricia M. Dunn. *Gender, Sexuality, and 21st Century Policing: Protecting the Rights of the LGBTQ+ Community, Appendix B. Sample Policy: Sexual Misconduct*. Office of Community Oriented Policing Services. 2017.

⁹ ILCS 720, Sections 5/11-0.1 to 5/11-1.60; Municipal Code of Chicago, Title 2, Chapter 2-78-100; United States Code 18 USC 2246; United States Department of Justice Title 18, U.S.C., Section 242.

¹⁰ Copple, James E., and Patricia M. Dunn. *Gender, Sexuality, and 21st Century Policing: Protecting the Rights of the LGBTQ+ Community, Appendix B. Sample Policy: Sexual Misconduct*. U.S. Department of Justice. Office of Community Oriented Policing Services. 2017.

¹¹ See COPA Logs 2019-1092474, 2021-0001047, and 2022-0001434.

questioned, or a CPD case may be viewed as receiving more attention because a Department member has an invested interest in the case due to a relationship. Also, a community member may be perceived to be in a quid pro quo arrangement with the Department member, so that an investigation is resolved more quickly.¹² The policy should make explicit that Department members are in a position of power that comes with a personal obligation to not engage in relationships that are conflicts of interest professionally, especially with members of the community, and including when Department members are off duty. The regulation of Department member conduct while off duty is supported by the International Association of Chiefs of Police as off-duty conduct can undermine the Department's authority and efficiency.¹³ Additionally, the Department should require its members to disclose relationships that are conflict of interests professionally and instruct members to recuse themselves from any professional duties deemed a conflict of interest. Department members should also not engage in (or suggest they will engage in) personal relations with individuals involved in an ongoing investigation until that case has concluded.

5. Expand upon the prohibitions of gratuitous physical contact, specifically pat downs, in Section V, Subsection G.

- a. **The policy should elaborate on improper pat downs to further address cases of Department member inappropriate contact.** The policy should specify how pat downs should be performed to prevent improper or unnecessary physical contact (e.g. reaching inside pants or pants pockets during a pat down, grabbing and manipulating the genital and groin areas during a pat down, and performing invasive searches instead of a pat down).¹⁴ The policy should reference the Investigatory Stop System directive (S04-13-09) description of a pat down stating, “[d]uring a Protective Pat Down of the outer clothing of the subject, the officer may not go into the pockets of the subject or reach underneath the outer surface of the garments. If during the Protective Pat Down of the outer clothing, the officer touches an object which the officer believes is a weapon, the officer may reach into that area of the clothing and retrieve the object.”¹⁵ Additionally, the policy should emphasize that members must critically consider if a pat down is justified before performing one. For example, the International Association of Chiefs of Police model policy for pat downs states, “[n]ot every investigatory detention poses sufficient justification for conducting a pat-down [...] Pat-downs should never be used as a pretext to obtain evidence or for other purposes.”¹⁶ Members should consider if the pat down is justified by the crime suspected, prior knowledge of the individual's use of force and propensity for carrying a weapon, and individual indications of weapon

¹² Lonsway, Kimberly A., Paynich, Rebecca, and Jennifer N. Hall. “Sexual Harassment in Law Enforcement: Incidence, Impact, and Perception.” *Police Quarterly* 16, no. 2, (2013): 177-210; Stinson, Philip M., Taylor, Robert W., and John Liederbach. “The Situational Context of Police Sexual Violence: Data and Policy Implications.” *Family & Intimate Partner Violence Quarterly* 12, no. 4 (Spring 2020) 59-68.

¹³ International Association of Chiefs of Police. *Addressing Sexual Offenses and Misconduct by Law Enforcement: Executive Guide*. June 2011.

¹⁴ See COPA Logs 2019-0001059, 2019-0003821, 2019-0004971, and 2022-0001827.

¹⁵ See S04-13-09, Investigatory Stop System (effective July 10, 2017 to present).

¹⁶ International Association of Chiefs of Police. *Arrests and Investigatory Stops*. September 2019.

carrying.¹⁷ Also, the policy should specify how members should perform pat downs and searches in unique circumstances. For example, the Department of Justice Office of Community Orientated Policing Services model policy states when conducting a pat down of a woman when there is a reasonable suspicion that a weapon is concealed in the chest area, “the proper method of frisking the area consists of blading the side of the hand in between the breasts and then running the side of the hand underneath the breasts, palm facing downwards.”¹⁸

- b. **The pat down procedures should further address how members can best respect individual gender preferences.** The policy references the directive on Interactions with Transgender, Intersex, and Gender Nonconforming (TGIN) Individuals (G02-01-03), which states that “before performing a pat-down of a TIGN individual, Department members will inform the individual of the option to express a preference for the gender of the member who will conduct the protective pat down.”¹⁹ The policy should expand on the procedure for members when initiating contact with members of the community before performing a pat down. The International Association of Chiefs of Police policy on interactions with transgender and gender-nonconforming recommends different options if a member is unsure about a person’s gender identity and is necessary to know for official policing purposes. For example, use the person’s gender expression and presentation to determine how to address the person (e.g., “miss,” “sir,” “him,” or “her”) or inquire about a person’s preferred form of address in a respectful manner (e.g., “What gender pronouns do you use?” or “What name should I use?”).²⁰ Additionally, pat down and search procedure training should emphasize that members may be asked or challenged about inquiring about a person’s gender identity, and that when reasonable, they should explain that it is to respect the person’s preference of gender of the officer that will perform a pat down. Also, training should include members roleplaying in scenarios where they interact with people of many different identities, including transgender individuals, to improve their understanding, comfortability and communication skills.²¹
- c. **The pat down procedures should address when individual gender preferences cannot be accommodated.** The policy should clarify the procedure for when no Department member of the gender requested for the pat down is available. The policy should include language from the Investigatory Stop System directive (S04-13-09) on pat downs stating, “[i]f a member of the same gender is not immediately available, officer and public safety is compromised, and it is imperative that an immediate search be conducted, members will not endanger themselves or the public to comply with this

¹⁷ International Association of Chiefs of Police. *Arrests and Investigatory Stops*. September 2019.

¹⁸ Copple, James E., and Patricia M. Dunn. *Gender, Sexuality, and 21st Century Policing: Protecting the Rights of the LGBTQ+ Community, Appendix B. Sample Policy: Sexual Misconduct*. U.S. Department of Justice. Office of Community Orientated Policing Services. 2017.

¹⁹ See G02-01-03, Interactions with Transgender, Intersex, and Gender Nonconforming (TIGN) Individuals (effective June 30, 2021 to present).

²⁰ International Association of Chiefs of Police Law Enforcement Policy Center. *Interactions with Transgender and Gender-Nonconforming Individuals*. International Association of Chiefs of Police. August 2018.

²¹ COPA staff met with LGBTQIA+ community groups for input regarding Department member interactions with the LGBTQIA+ community.

requirement. Members will exercise caution when patting down outer garments of persons of the opposite sex.”²² Additionally, the policy should require members to document the inability to honor a gender preference the request.²³ This documentation could be included in the Investigatory Stop Report (CPD-11.910) in the section on protective pat downs as a follow-up question to “Was protective pat down based on consent?” The question could include a “yes or no” checkbox for “Was the gender preference able to be honored? If no, explain in the Investigatory Stop Narrative.”²⁴

6. Incorporate the directives on Department member access and use of personal information, computerized information systems, and social media into Section V, Subsection P.²⁵

- a. **Specify how the directives on access and use of personal information and computerized information systems apply to the prohibitions of sexual misconduct policy.**²⁶ The policy should highlight that “access to information is restricted to official police business [and] access of information for personal or other reasons is strictly prohibited.”²⁷ Also, the policy should emphasize that “[m]embers who access information through a Departmental computerized information system will be held responsible should such information be used in violation of the law and/or Departmental rules and regulations.”²⁸ Additionally, Department member use of resources and information systems should be periodically audited for inappropriate use. For example, the International Association of Chiefs of Police recommends auditing member use of information systems to access personal information, particularly information of individuals who have been reported for committing sexual misconduct (e.g., their residential address or phone number).²⁹
- b. **The Department should make effective its current draft policy regarding the Use of Social Media Outlets (G09-01-06)** dated January 13, 2023 and incorporate COPA’s feedback on the policy in its letter to CPD.³⁰ The social media policy should also be referenced in the policy on prohibitions of sexual misconduct to highlight how social media content can contain inappropriate sexually explicit language, images, acts, jokes,

²² See S04-13-09(VI)(A)(2).

²³ Copple, James E., and Patricia M. Dunn. *Gender, Sexuality, and 21st Century Policing: Protecting the Rights of the LGBTQ+ Community, Appendix B. Sample Policy: Sexual Misconduct*. Office of Community Oriented Policing Services. 2017.

²⁴ See CPD-11.910, Investigatory Stop Report (effective July 2017 to present).

²⁵ See G09-01, Computerized Information Systems (effective September 11, 1998 to present); G09-01-01, Access to Computerized Data, Dissemination and Retention of Computer Data (effective February 3, 2012 to present); G09-01-05, Department-Issued Electronic Communication Devices (effective April 29, 2021 to present); G09-01-06, Use of Social Media Outlets (effective October 22, 2020 to present).

²⁶ See COPA Logs 2018-1091813 and 2022-0001434.

²⁷ See G09-01-01, Access to Computerized Data, Dissemination and Retention of Computer Data (effective February 3, 2012 to present).

²⁸ See G09-01, Computerized Information Systems (effective September 11, 1998 to present).

²⁹ International Association of Chiefs of Police. *Addressing Sexual Offenses and Misconduct by Law Enforcement: Executive Guide*. June 2011.

³⁰ See COPA’s letter to CPD regarding the policy on social media (G09-01-06) from February 15, 2023; See COPA Log 2018-1088074.

or messages that are encompassed in a sexual misconduct complaint (e.g., member making inappropriate advances by commenting on other social media accounts).³¹

- 7. Reference the specific directives that address member conduct and prohibitions when interacting with vulnerable populations in Section VI, Subsection B, Paragraph 2.** The policy currently explains that perceived or actual vulnerabilities may play a role in the selection of sexual misconduct victims and lists some related populations where victimization is more frequent. The other Department policies that specifically address frequently victimized populations and/or situations that foster vulnerabilities, include:
- a. Protection of Human Rights (G02-01);³²
 - b. Interactions with Transgender, Intersex, and Gender Nonconforming (TIGN) Individuals (G02-01-03);
 - c. Community Policing Mission and Vision (G02-03);³³
 - d. Interactions with Youth and Children (G02-05);
 - e. Domestic Incidents (G04-04);³⁴
 - f. People with Disabilities (S02-01-01);
 - g. Crime Victim and Witness Assistance (S02-01-03);
 - h. Alcohol and Drug Dependent Persons (S02-01-04);
 - i. Limited English Proficiency (S02-01-05);
 - j. Older Adults at Risk (S02-01-07);³⁵
 - k. T Visa and U Visa Nonimmigrant Status Certification (S02-06);
 - l. School Resource Officers and Investigations at Chicago Public Schools (S04-01-02);
 - m. Missing/Found Persons (S04-05);³⁶
 - n. Recognizing and Responding to Individuals in Crisis (S04-20);³⁷
 - o. Human Trafficking (S04-27);
 - p. Abused, Neglected, Dependent or Abandoned Children Coming Under Department Control (S06-04-05); and
 - q. Responding to Incidents Involving Citizenship Status (S06-14-03).

³¹ See COPA Log 2021-0002800; International Association of Chiefs of Police. *Addressing Sexual Offenses and Misconduct by Law Enforcement: Executive Guide*. June 2011.

³² See G02-01, Protection of Human Rights (effective June 30, 2020 to present), which includes policy on limited English proficiency and people with disabilities.

³³ See G02-03 (IV)(D), Community Policing Mission and Vision (effective June 30, 2022 to present) that outlines a variety of Department member youth engagement and partnerships (e.g., Drug Abuse Resistance Education (D.A.R.E.) Program and Gang Resistance Education and Training (G.R.E.A.T.) Program).

³⁴ See G04-04, Domestic Incidents (effective December 28, 2012 to present), stating that members should determine the predominant aggressor in previous victimization, such as prior history of domestic violence between the parties.

³⁵ See S02-01-07, Older Adults at Risk (effective August 26, 2020 to present), stating the signs and indicators of abuse for disabled persons and mandatory reporting for disabled persons.

³⁶ See S04-05, Missing Found Persons (effective August 26, 2020 to present), which includes “At-Risk” missing persons, including tender-age children and disabled persons.

³⁷ See S04-20, Recognizing and Responding to Individuals in Crisis (effective August 18, 2023 to present), stating the procedures for members responding to persons with developmental or intellectual disabilities or substance use disorders.

The relevant directives about such populations and situations should be mentioned at the end of the paragraph for Department members to easily reference and review, as these directives are found in a variety of locations in the Department directive system.

8. Further clarify Department member requirements as mandated reporters for any sexual misconduct committed by an adult against a child in Section VI, Subsection B, Paragraph 3.

Include the additional specific CPD policy requirements for Department members, such as notifying “the [Bureau of Detectives] Special Investigations Unit at the Chicago Children’s Advocacy Center in cases involving all sexual abuse/assault cases of children 0 through 12 years of age, and family-related sexual abuse/assault cases of children 0 through 17 years of age.”³⁸ Also, reference the policy on Abused, Neglected, Dependent or Abandoned Children Coming Under Department Control (S06-04-05).³⁹

9. Elaborate on the Department’s prevention, early warning signs, and peer intervention measures against sexual misconduct in Section VI.

- a. **As a prevention measure, ensure all Department members receive comprehensive training on sexual misconduct prohibitions in Section VI, Subsection A.** Ensure the training includes hypothetical scenarios and thoughtful role-playing exercises to allow Department members to practice their responses when involved in a situation concerning sexual misconduct. Department members should also participate in cross trainings with other professionals (e.g., victim advocates, prosecutors) outside of a law enforcement setting to obtain a broader understanding of the issues surrounding sexual misconduct.⁴⁰ The training should address implicit and explicit biases regarding race, gender, sexual orientation, or sex work, as these can affect the initial response to situations involving sexual misconduct and the subsequent investigation of such misconduct. Sexual misconduct training should convey how biases may lead to improper classification, reporting, interviewing, and treatment of victims in this context and discuss beliefs/assumptions about victims and viable implicit bias mitigation strategies (e.g., encourage supervisors to model unbiased behavior, ensure supervisors hold members accountable for their conduct, and incorporate implicit bias training into duty-to-intervene and mandatory reporting trainings to promote cultural change).⁴¹
- b. **Include additional early warning signs and behaviors that could lead to sexual misconduct by members that are not explicitly included in Section VI, Subsection B.** The International Association of Chiefs of Police finds that a wide range of potentially predatory and stalking behaviors should be considered because these may be

³⁸ See S06-04-05, Abused, Neglected, Dependent or Abandoned Children Coming Under Department Control (effective September 25, 2015 to present).

³⁹ See S06-04-05, Abused, Neglected, Dependent or Abandoned Children Coming Under Department Control (effective September 25, 2015 to present).

⁴⁰ International Association of Chiefs of Police. *Addressing Sexual Offenses and Misconduct by Law Enforcement: Executive Guide*. June 2011.

⁴¹ Department of Justice. *Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence*. 2015; Ritchie, Andrea J., and Delores Jones-Brown. Policing Race, Gender, and Sex: A Review of Law Enforcement Policies, *Women & Criminal Justice* 27, no. 1 (January 2017): 21-50; Council on Criminal Justice Task Force on Policing. Policy Assessment: Implicit Bias Training. March 2021.

precursors to sexual misconduct.⁴² The Department should consider adapting the Officer Support System (OSS) Pilot Program (D20-04) early intervention system, which helps identify members in need of additional support, by incorporating early warning signs for sexual misconduct.⁴³ For example, research and model policy suggest addressing a variety of early warning signs of sexual misconduct by law enforcement, including:

- i. Unusually high incidence of physical altercations or verbal disputes, in comparison to other members responding to similar incidents;
- ii. Any complaints filed by the public or other members regarding member aggression, harassment, physical abuse, or verbal abuse;
- iii. Reported or suspected violence against family members;
- iv. Suspicious patterns of activity, such as frequenting patrol of places where people engage in sexual activity (e.g., sex worker locations, vulnerable population locations, campus residence halls, or LGBTQIA+ spaces);
- v. Suspicious patterns of frequent volunteer transports of intoxicated or vulnerable populations; and
- vi. Apparent grooming behavior or inappropriate boundaries with juveniles.⁴⁴

- c. **Conduct periodic reviews of Department member social media pages to ensure the content does not discredit the Department or contain inappropriate or harmful material.** Supervisors should receive training on reviewing social media pages to detect problematic and harmful content (e.g. obscene or sexually explicit language, images, acts, or statements) that may indicate warning signs and patterns of sexual misconduct.⁴⁵ The Department should develop a procedure for supervisors to escalate social media content in need of further review,⁴⁶ similar to the assignment of log number investigations.⁴⁷ Additionally, supervisors should receive education on court decisions regarding employee social media use, such as courts upholding the ability for law enforcement agencies to discipline or terminate employees for improper social media use (e.g., court rulings regarding when a department’s interests outweigh a member’s First Amendment interests).⁴⁸
- d. **Incorporate routine audits of Department member performance for potential warning signs of sexual misconduct in Section VI, Subsection C.** Supervisors should review the language used by members in reports (e.g., derogatory language against women or TIGN

⁴² International Association of Chiefs of Police. *Addressing Sexual Offenses and Misconduct by Law Enforcement: Executive Guide*. June 2011.

⁴³ See D20-04, Officer Support System (OSS) – Pilot Program (effective June, 30 2022 to present).

⁴⁴ Stinson, Philip M., Taylor, Robert W., and John Liederbach. “The Situational Context of Police Sexual Violence: Data and Policy Implications.” *Family & Intimate Partner Violence Quarterly* 12, no. 4 (Spring 2020) 59-68; Tremblay, Thomas, Archambault, Joanne S., Kimberly A. Lonsway. Model Policy Resource: Law Enforcement Sexual Misconduct Prevention and Accountability. *End Violence Against Women International*. December 2022.

⁴⁵ International Association of Chiefs of Police. *Model Policy: Social Media*. August 2010; International Association of Chiefs of Police. *Addressing Sexual Offenses and Misconduct by Law Enforcement: Executive Guide*. June 2011; International Association of Chiefs of Police. Concepts & Issues Paper: *Social Media*. May 2019.

⁴⁶ See COPA’s February 15, 2023 letter to CPD regarding the Social Media Policy

⁴⁷ See G08-01-02, Complaint Initiation and Log Number Investigation Assignment (effective December 31, 2022 to present).

⁴⁸ *City of San Diego v. Roe*, 543 U.S. 77 (2004); *Dible*, 502 F.3d at 1048 (9th Cir. 2007).

individuals) and escalate problematic reports in a similar process as the one developed for reviewing social media content. Additionally, the Department should audit member stops and clearance rates for potential inappropriate patterns of gender-based biases that are associated with sexual misconduct (e.g., high rates of stops and arrests of women and TIGN individuals).⁴⁹ The audit process could work in conjunction to the Officer Support System (OSS) Pilot Program (D20-04) to identify members in need of early intervention and additional support.⁵⁰

- e. **Incorporate additional safeguards for members when reporting sexual misconduct to supervisors in Section VI, Subsection D.** When appropriate, the Department should enact additional safeguards to protect members as either victims or witnesses of sexual misconduct. The Department should prohibit supervisors from revealing any information regarding a report of sexual misconduct other than when necessary (e.g., chain of command reporting duties). Require supervisors to maintain the confidentiality of a reporting member to reduce the risk of retaliation by other members. Also, supervisors should offer confidential changes to work assignments for members who have reported sexual misconduct when working alongside a member they have accused of sexual misconduct. Supervisors should be mindful of these changes to not create negative, unintended consequences for a reporting member, such as being seen as a demotion by the reporting member or fostering retaliation by other members in the Department.⁵¹ Additionally, supervisors should carefully consider the assignment of members who are accused of sexual misconduct. The International Association of Chiefs of Police recommends accused members be assigned to administrative roles to reduce the potential risk of further sexual misconduct or retaliation against a reporting member. Finally, the Department should consider using its ability to issue an Administrative Order of Protection against an accused member of sexual misconduct, if necessary, to ensure the safety of all members.⁵²
- f. **Ensure supervisors and field training officers receive advanced training on sexual misconduct policy and procedure in Section VI, Subsection D.** The International Association of Chiefs of Police finds it is the responsibility of Department leadership to have increased knowledge and understanding regarding sexual misconduct to lead the Department effectively and shape the character of individual members. The sexual misconduct training should include instruction on how to support the policy, respect

⁴⁹ Copple, James E., and Patricia M. Dunn. *Gender, Sexuality, and 21st Century Policing: Protecting the Rights of the LGBTQ+ Community, Appendix B. Sample Policy: Sexual Misconduct*. Office of Community Oriented Policing Services. 2017.

⁵⁰ See D20-04, Officer Support System (OSS) – Pilot Program (effective June, 30 2022 to present).

⁵¹ Lonsway, Kimberly A., Paynich, Rebecca, and Jennifer N. Hall. "Sexual Harassment in Law Enforcement: Incidence, Impact, and Perception." *Police Quarterly* 16, no. 2, (2013): 177-210; Siegel, Emily R., and Simon Weichselbaum. "Major U.S. Police Departments Plagued by Officer-on-Officer Sexual Abuse and Retaliation. *NBC News*, December 9, 2022, <https://www.nbcnews.com/news/investigations/major-us-police-departments-plagued-officer-officer-sexual-abuse-retal-rcna53020>

⁵² International Association of Chiefs of Police. *Addressing Sexual Offenses and Misconduct by Law Enforcement: Executive Guide*. June 2011.

boundaries and confront sensitive situations involving members, and enact protocols for responding to sexual misconduct complaints by members.⁵³

10. Elaborate on the Department’s partnerships with victim advocacy groups in Section IX, Subsection B. The policy should specify which victim advocacy groups the Department works with by creating a directory on the Department’s intranet system of current victim advocacy groups the Department partners with and include resources and information on contacting these groups.

11. The Department should publish an annual report on sexual misconduct. As the Office of Inspector General Public Safety publishes an annual report on sexual misconduct allegations by reviewing the administrative investigations and recommending policy,⁵⁴ the Department’s report should focus on assessing its prevention and detection efforts, evaluating the Department’s professional standards, reviewing training practices and procedures, and identifying and responding to any outstanding policy violations. The report should compare its progress to previous years and be made available to the public.⁵⁵

Thank you for considering COPA’s feedback on this important topic. COPA hopes to open a dialogue and work collaboratively with CPD toward the goal of operationalizing the above recommendations. As such, COPA requests a response to the above recommendations from the Superintendent of Police or his designee within 60 days, pursuant to Section 2-78-130(b) of the Municipal Code of Chicago

Sincerely,



Andrea Kersten
Chief Administrator
Civilian Office of Police Accountability

⁵³ International Association of Chiefs of Police. *Addressing Sexual Offenses and Misconduct by Law Enforcement: Executive Guide*. June 2011.

⁵⁴ City of Chicago Office of Inspector General. *Report on Investigations of Sexual Misconduct Allegations Against Chicago Police Department Members, 2021*. June 2022; City of Chicago Office of Inspector General. *Report on Investigations of Sexual Misconduct Allegations Against Chicago Police Department Members, 2022*. May 2023.

⁵⁵ International Association of Chiefs of Police. *Addressing Sexual Offenses and Misconduct by Law Enforcement: Executive Guide*. June 2011; Copple, James E., and Patricia M. Dunn. *Gender, Sexuality, and 21st Century Policing: Protecting the Rights of the LGBTQ+ Community, Appendix B. Sample Policy: Sexual Misconduct*. U.S. Department of Justice. Office of Community Oriented Policing Services. 2017.

cc:

Angel Novalez, Chief of Office of Constitutional Policing, Chicago Police Department

Allyson Clark-Henson, Deputy Managing Director, Chicago Police Department

Dana O'Malley, General Counsel, Chicago Police Department

Scott Spears, Assistant General Counsel, Chicago Police Department

Justin Escamilla, Deputy Chief Administrator, Civilian Office of Police Accountability

Morgan McGuirk, Research Associate, Civilian Office of Police Accountability



Brandon Johnson
Mayor

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

Larry Snelling
Superintendent of Police

August 30, 2024

Andrea Kersten
Chief Administrator
Civilian Office of Police Accountability ("COPA")
1615 W. Chicago Ave., 4th Floor

Re: Chicago Police Department Prohibitions of Sexual Misconduct (G08-06)

Dear Chief Administrator Kersten:

The Chicago Police Department ("CPD") appreciates COPA's review of CPD General Order G08-06 concerning Prohibitions of Sexual Misconduct. The CPD referred this review to its Research and Development Unit for evaluation. The results of this evaluation are included in the enclosed response matrix and draft revision to G08-06.

The CPD looks forward to continuing its work with COPA to further improve policies.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott Spears".

Scott Spears
General Counsel
Chicago Police Department

**CONSENT DECREE DRAFT DOCUMENT – COMMENT REVIEW
CHICAGO POLICE DEPARTMENT**

Unit Submitting Response: Unit 127, Research and Development Division

Submission Date:

Submitter’s Name, Email Address, Phone Number: [REDACTED]

Title of Document: G08-06 Prohibitions of Sexual Misconduct

Date of COPA Submission: 31 MAY 2024

COPA Comments/G08-06 Sexual Misconduct	Research and Development Response
<p style="text-align: center;">(31 May 24)</p> <p>1. Revise the policy’s “zero-tolerance” language around sexual misconduct to align with realities of the disciplinary system more closely.</p>	<p>The Department appreciates and accepts this comment from COPA. Item II.B now reads:</p> <p>The Department has a zero tolerance for sexual misconduct, and it is strictly prohibited. The Department will make every effort to prevent such conduct and hold Department members accountable for any violations of this policy. Consistent with the Department directive titled “Complaint and Disciplinary System,” Department members may be disciplined up to and including separation from the Department for violations of this policy.</p>
<p style="text-align: center;">(31 May 24)</p> <p>2. Develop a comprehensive Department policy with procedures that fully address lock-up facilities.</p> <p style="margin-left: 20px;">a. The lock-up facility directive should elaborate on the proper procedure for strip searches.</p> <p style="margin-left: 20px;">b. The lock-up facility directive should include information on how individuals in police lock-up facilities can report sexual misconduct.</p>	<p>The Department has noted the recommendation and appreciates it. The Department currently has policies that address lockup procedures, S06-01-02 Detention Facilities General Procedures and Responsibilities, S06-01-04 Arrestee Identification Process, and S06-01-07 Required Lockup Standards and Reporting. These existing policies address lockup procedures for searching arrestees, and the reporting of sexual assault.</p> <p>However, the Department can look further into the review of existing signage to determine what information is given in regard to reporting sexual misconduct during the upcoming review of G08-06 "Prohibitions of Sexual Misconduct."</p>
<p style="text-align: center;">(29 Sep 2023/31 May 24)</p> <p>3. Revise the terms in Section IV and Section V to provide additional clarity and reorganize the terms according to type of member interaction.</p>	<p>The Department appreciates and accepts this comment from COPA.</p>

<p>a. Introduce the definitions in Section IV as “acts defined in the Illinois Criminal Code” and other related legal sources (e.g., Municipal Code of Chicago, United States Code, United States Department of Justice).</p> <p>b. Classify the prohibitions of sexual misconduct for on duty and off duty interactions with members of the community in Section V</p>	<p>In an effort to increase clarity in item V in regard to on and off duty conduct item V.B was revised to read:</p> <p>All sexually motivated activity and behaviors are prohibited while on duty including but not limited to the below-listed prohibitions:</p> <ol style="list-style-type: none"> 1. Sexual behavior—All sexual behavior and activity are prohibited while on duty or in a Department facility, Department vehicle, or on a Department device and includes, but is not limited to, consensual sexual relations, masturbation, viewing or distributing pornographic images, and sexting. 2. All sexual contact—with anyone while on duty, specifically between any Department member and detainee or arrestee. No sexual activity while a Department member is on duty is considered consensual. <p>The Additionally, item V.B.14 Note was revised to read: Department members are reminded that the Rules and Regulations of the Chicago Police Department State: A police officer is the most conspicuous representative of government, and to the majority of the people he is a symbol of stability and authority upon whom they can rely. An officer's conduct is closely scrutinized, and when his actions are found to be excessive, unwarranted or unjustified he, and the Department, are criticized for more severely than comparable conduct of persons in other walks of life. Since the conduct of a member, on or off duty, does reflect directly upon the Department, a member must at all times conduct himself in a manner which does not bring discredit to himself, the Department or the City</p>
<p>(29 Sep 2023/31 May 24)</p> <p>4. Elaborate on the specific prohibitions for Department member conflicts of interest with members of the community in Section V.</p>	<p>The Department has noted the recommendation and appreciates it. This policy is about the strict prohibition of sexual misconduct, not conflicts of interest. G08-01-03 "Conflicts of Interest" focus on those situations.</p> <p>G08-06 "Prohibitions of Sexual Misconduct" outline in several items prohibited behavior by members, including Item V.F which prohibits the</p>

	<p>abuse of a member's official position to coerce, persuade, initiate, or force sexual contact.</p> <p>Item V.P. prohibits the use of Department resources and information systems for non-legitimate law enforcement purposes.</p>
<p>(31 May 24)</p> <p>5. Expand upon the prohibitions of gratuitous physical contact, specifically pat downs, in Section V, Subsection G.</p> <ul style="list-style-type: none"> a. The policy should elaborate on improper pat downs to further address cases of Department member inappropriate contact. b. The pat down procedures should further address how members can best respect individual gender preferences. c. The pat down procedures should address when individual gender preferences cannot be accommodated. 	<p>The Department has noted the recommendation and appreciates this comment from COPA.</p> <p>(a) G08-06 "Prohibitions of Sexual Misconduct" address the misconduct in gratuitous physical contact. Item V.G clearly outlines that inappropriate, unnecessary, and unnecessarily invasive searches or pat downs are prohibited.</p> <p>(b,c) Pat down procedures and gender preferences for searches is not related to the sexual misconduct policy G08-06 and are located in the appropriate policy, S04-13-09 "Investigatory Stop System" and G02-01-03 "Interactions with Transgender, Intersex, and Gender Nonconforming (TIGN) Individuals.</p>
<p>(29 Sep 2023/31 May 24)</p> <p>6. Incorporate the directives on Department member access and use of personal information, computerized information systems, and social media into Section V, Subsection P.</p> <ul style="list-style-type: none"> a. Specify how the directives on access and use of personal information and computerized information systems apply to the prohibitions of sexual misconduct policy. b. The Department should make effective its current draft policy regarding the Use of Social Media Outlets (G09-01-06). <p>Reference the specific directives that address member conduct and prohibitions when interacting with vulnerable populations in Section VI, Subsection B, Paragraph 2.</p>	<p>The Department has noted the recommendation and accepts this comment from COPA.</p> <p>Although this policy is strictly about sexual misconduct. Prohibitions on use of Department data systems is in G09-01-01 "Access to Computerized Data, Dissemination and Retention of Computer Data" specifically prohibits the access of information from the Department's computerized information systems for personal use or other reasons. For that reason we have revised item</p> <p>(b) When draft policy G09-01-06 " Use of Social Media Outlets" is published the Department will review for any possible information that is relevant for addition into G08-06 "Prohibitions of Sexual Misconduct."</p> <p>However, the Department directives titled G09-01-01 "Access to Computerized Data, Dissemination</p>

[and Retention of Computer Data](#)" and G09-01-06 "[Use of Social Media Outlets](#)" were referenced and item V.B.4.b now reads:

Sexual Shakedowns—using a member's law enforcement authority or official position to coerce, persuade, force, initiate, or extort sexual contact or inappropriate sexual actions in exchange for not ticketing, arresting, or using other law enforcement powers (e.g., contacting other enforcement agencies, a landlord, employer, or any other entity or threatening to take any such action against a person's family) against any individual or not properly or equitably enforcing the law, when on or off duty, is prohibited.

- a. Department members will ensure their law enforcement authority and use of discretion is reasonable, defensible, and not used for an improper purpose (sexual misconduct) consistent with the Department directive titled "Protection of Human Rights."
- b. Department members will ensure their use of law enforcement resources and information systems are for legitimate law enforcement purposes only, in accordance with the Department directive titled "[Access To Computerized Data, Dissemination and Retention of Computer Data.](#)"

V.B.9 now reads:

Sexual communications while on duty—sexually degrading/offensive jokes and comments, insulting language or behaviors are prohibited (e.g., sexual flirtation or sexual intimidation, requesting dates whether during an officer-initiated or community-member contact regardless of consent or actions of others) are prohibited.

NOTE:

In accordance with the Department Directive titled "[Use of Social Media Outlets](#)," Department Members will not use social media whether on or off duty to post, display, transmit, or otherwise disseminate any communications that discredit or reflect poorly on the Department, its vision, mission, values, or goals.

<p style="text-align: center;">(29 Sep 2023/31 May 24)</p> <p>7. Reference the specific directives that address member conduct and prohibitions when interacting with vulnerable populations in Section VI, Subsection B, Paragraph 2.</p>	<p>The Department has noted the recommendation and appreciates this comment from COPA. However, G08-06 Item VI.B.2 is in reference to early warning signs of sexual misconduct and who potential victims may be. None of the other listed policies address member conduct in reference to sexual misconduct.</p>
<p style="text-align: center;">(31 May 24)</p> <p>8. Further clarify Department member requirements as mandated reporters for any sexual misconduct committed by an adult against a child in Section VI, Subsection B, Paragraph 3.</p>	<p>The Department has noted the recommendation and appreciates this comment from COPA. However, G08-06 Item VI.B.3.Note outlines what a mandated reporter is and their responsibilities.</p>
<p style="text-align: center;">(31 May 24)</p> <p>9. Elaborate on the Department’s prevention, early warning signs, and peer intervention measures against sexual misconduct in Section VI.</p> <ul style="list-style-type: none"> a. As a prevention measure, ensure all Department members receive comprehensive training on sexual misconduct prohibitions in Section VI, Subsection A. b. Include additional early warning signs and behaviors that could lead to sexual misconduct by members that are not explicitly included in Section VI, Subsection B. c. Conduct periodic reviews of Department member social media pages to ensure the content does not discredit the Department or contain inappropriate or harmful material. d. Incorporate routine audits of Department member performance for potential warning signs of sexual misconduct in Section VI, Subsection C. e. Incorporate additional safeguards for members when reporting sexual misconduct to supervisors in Section VI, Subsection D. f. Ensure supervisors and field training officers receive advanced training on sexual 	<ul style="list-style-type: none"> a. The Department has noted the recommendation and appreciates it. Item XIII states All Department members will undergo regular and refresher training concerning sexual misconduct, prohibitions, and trauma-informed and victim-centered approaches to investigations of sexual misconduct, as defined in the policy. b. CPD has worked extensively with the IMT/OAG, Mayor's Office, and the Subject Matter Experts on the development of this policy. CPD appreciates the recommendation and will continue to evaluate best practice research and subject matter expert direction in adding any additional warning signs and behaviors. CPD believes that this recommendation will be suited for the upcoming policy review for G08-06 "Prohibitions of Sexual Misconduct." c. G09-01-06 "Use of Social Media Outlets" advises Department members that their social media content is open to periodic review by the Department at any time. G09-01-06 states: "Department Members should expect that any information that they create, transmit, download, exchange, or discuss that is available online in a public forum may be accessed by the Department without prior notice. d. CPD has worked extensively with the IMT/OAG, Mayor's Office, and the Subject Matter Experts on the development of this policy. CPD appreciates the recommendation and will continue to evaluate best practice research and subject matter expert direction in adding any additional

<p>misconduct policy and procedure in Section VI, Subsection D</p>	<p>warning signs and behaviors. CPD believes that this recommendation will be suited for the upcoming policy review in the near future.</p> <p>e. G08-01-02 "Complaint Initiation and Log Number Investigation Assignment" Item III.F states " If any supervisor determines that a complaint may warrant a confidential Log Number, the supervisor will record all information available at the time the allegation is received or the supervisor otherwise becomes aware of the possible misconduct. The information will be contained in a To-From-Subject Report directed to the Chief of the Bureau of Internal Affairs, with the subject line "Request for Confidential Investigation." This measure is to protect the reporting and accused members during such investigations.</p> <p>f. CPD will review upcoming policy revisions associated with this recommendation when it conducts it's 2-year policy review on G08-06 "Prohibitions of Sexual Misconduct." As this recommendation is not policy related the Research and Development Division can ensure that this recommendation is directed to the appropriate Department unit.</p>
<p>(31 May 24)</p> <p>10. Elaborate on the Department's partnerships with victim advocacy groups in Section IX, Subsection B. The policy should specify which victim advocacy groups the Department works with by creating a directory on the Department's intranet system of current victim advocacy groups the Department partners with and include resources and information on contacting these groups.</p>	<p>The Department has noted the recommendation and appreciates it. The Department intranet website and its content is not under the purview of the Research and Development Division, this recommendation will be directed to the appropriate Department unit.</p>
<p>(31 May 24)</p> <p>11. The Department should publish an annual report on sexual misconduct.</p>	<p>The Department has noted the recommendation and appreciates it. CPDs Bureau of Internal Affairs produces annual reports with statistical information around sexual misconduct allegations.</p>

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CPD-11.202 (01/21)