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Enforcement of the Chicago Police Department's Rule Against False Reports

MAY 25, 2023

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Acronyms

BIA	Bureau of Internal Affairs
BWC	Body Worn Camera
CBA	Collective Bargaining Agreement
CCSAO	Cook County State's Attorney's Office
COPA	Civilian Office of Police Accountability
CPD	Chicago Police Department
FBI	Federal Bureau of Investigation
FTO	Field Training Officer
IPRA	Independent Police Review Authority (predecessor to COPA)
OIG	Office of Inspector General
OPS	Office of Police Standards (predecessor to COPA's predecessor IPRA)
PPO	Probationary Police Officer

City of Chicago Office of Inspector General

Inquiry: Enforcement of CPD's Rule Against False Reports (Rule 14)

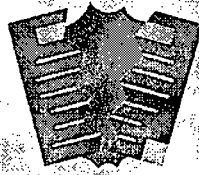


Honesty and Trustworthiness are Essential Traits for CPD Members

BIA, COPA, and the Police Board, the agencies that comprise the City's police accountability system, have publicly stated these are foundational principles to the work of police in Chicago.

CPD Does Not Always Fire Members When They Make False Reports

Despite stating that members should be separated for violating Rule 14, CPD currently or recently has employed at least 110 members with histories of making false reports.



CPD's Record Keeping Practices Exacerbate the Risk Posed by Employing Members with Rule 14 Histories

Failing to correctly identify and disclose members' Rule 14 histories violates CPD's constitutional obligations and risks violating the law. Plus this may undermine core functions of the Department and compromise otherwise successful convictions.

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

I | Executive Summary

As mandated by the consent decree entered in *Illinois v. Chicago*, the Public Safety section of the City of Chicago Office of Inspector General (OIG) has conducted an inquiry into the enforcement of the Chicago Police Department's (CPD or the Department) Rule 14, which prohibits CPD members from "[m]aking a false report, written or oral."¹ Alleged violations of CPD's Rules and Regulations are usually investigated by CPD's Bureau of Internal Affairs (BIA) and by the Civilian Office of Police Accountability (COPA), with the most serious of police disciplinary cases being adjudicated by the Chicago Police Board.² All of these entities come within the scope of OIG's inquiry into the enforcement of CPD's rule against false reports.

The truthfulness and credibility of police officers is foundational to the fair administration of justice, and to CPD's effectiveness as a law enforcement agency. CPD, COPA, and the Police Board have each publicly expressed the view that these qualities in CPD members are integral to their ability to perform their duties and that a member's violation of Rule 14 poses important risks, including undermining their ability to offer testimony in criminal prosecutions arising from CPD's arrests. Due to the severity of the impact that stems from a CPD member making a false statement or report, CPD and COPA have reported the position that separation (i.e., termination of employment) is the appropriate disciplinary penalty when a member is found to have violated Rule 14.

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

- BIA and COPA consistently allege Rule 14 violations when a CPD member makes a false statement or a material omission;
- Sustained allegations involving false statements consistently result in separation of the accused member from CPD;³ and
- relevant agencies share information about Rule 14 violations and adverse credibility findings or negative credibility determinations.⁴

OIG found the following:

1. Structural failures in Chicago's police accountability system allow CPD members with Rule 14 histories to remain in positions with duties that depend upon their truthfulness and credibility.⁵ CPD, COPA, and the Police Board each state a Department member's honesty is integral to their duties and that a Rule 14 violation can erode public trust and create risks for CPD. However, CPD, COPA, and Police Board practices allow for Department members with Rule 14 histories to remain employed, often assigned to positions such as Beat Officer or Detective.

¹ Chicago Police Department, "Rules and Regulation of the Chicago Police Department," April 16, 2015, accessed February 6, 2023, <http://directives.chicagopolice.org/#directive/public/6412>. Consent Decree, *State of Illinois v. City of Chicago*, No. 17-cv-6260 (N.D. Ill., Jan. 31, 2019).

² Adjudication refers to the legal process of resolving a dispute or deciding a case.

³ The consent decree requires COPA or BIA to recommend "'Sustained,' where it is determined the allegation is supported by a preponderance of the evidence." Consent Decree at ¶467.

⁴ These terms refer to, for example, judicial findings where a judge determines a witness (e.g., a CPD member) is not credible or when the Police Board determines a CPD member is not credible during a hearing.

⁵ For the purposes of this report, OIG uses "members with Rule 14 histories" to describe members against whom allegations of violating Rule 14 have been sustained and remain undisturbed after all available review and appeal pathways—including any grievance procedures and Police Board review—have been exhausted and/or waived.

2. CPD's processes for identifying members with Rule 14 histories and sharing this information as required lack rigor and controls, and therefore pose risk to the Department and compromise the legal and constitutional rights of defendants and litigants. CPD does not accurately maintain records pertaining to members' Rule 14 histories. Members with Rule 14 histories were missing from the list CPD provided to OIG and additional records were inconclusive or could not be located. Further, CPD will only produce a member's disciplinary history if a prosecutor explicitly requests the disciplinary history, which does not appear to be a consistent practice.
3. Gaps in current BIA and COPA policies and practices contribute to the underenforcement of Rule 14. BIA policies do not instruct investigators to consider all forms of evidence when evaluating inconsistencies during their investigations. COPA policies do not instruct investigators to specifically consider Rule 14 violations when making credibility determinations. And finally, BIA and COPA Summary Reports do not consistently reflect consideration and analysis of potential Rule 14 violations.

To improve the enforcement of Rule 14, OIG recommends the following:

1. BIA and COPA should recommend separation of CPD members found to have violated Rule 14, consistent with the agencies' respective stated policy positions.
2. CPD should consistently separate members who have violated Rule 14, given the risks – including legal and reputational ones – posed by continuing to employ such members.
3. The Police Board should uphold separations for members who have violated Rule 14, consistent with the Board's language in its decisions about the impact of Rule 14 violations.
4. If members who have violated Rule 14 remain employed with the Department, CPD should ensure they are assigned or detailed to positions that do not require them to write reports or testify in court. CPD should also periodically review the assignments and details of its members with Rule 14 histories, as applicable, to ensure they are not in positions that require them to write reports or testify in court.
5. CPD should maintain accurate records which permit the identification of all members with Rule 14 histories.
6. CPD should consistently and timely inform prosecutorial bodies when a Department member's Rule 14 violation is finalized and all available review and appeal pathways—including any grievance procedures and Police Board review—have been exhausted and/or waived.
7. CPD should document which records the Department produces pursuant to its disclosure obligations, so that it may confirm or verify that it has met these obligations.
8. CPD should revise its "Requirements of a Complete Log Number Investigative File" directive to further clarify that BIA investigators should consider all types of evidence when conducting credibility assessments and subsequent analyses of potential Rule 14 violations.
9. COPA should revise its "Final Summary Report" policy to instruct investigators to consider Rule 14 violations specifically when conducting credibility assessments.
10. BIA and COPA should update their Summary Reports to include a standardized mechanism, such as an affirmation or certification, where investigators indicate they

have considered all evidence, including original statements and any subsequent statements and amended or modified statements, to determine whether a CPD member who is the subject of a disciplinary investigation has violated Rule 14. As needed, Summary Reports should capture the investigating agency's thorough consideration and analysis of the applicability of Rule 14. To help ensure consistency, fairness, and thoroughness of investigations, and the rigorous and thorough enforcement of Rule 14, investigators should be required to make this affirmation or certification in each disciplinary matter which is investigated to a finding.⁶

⁶ A misconduct investigation may be disposed of in several different ways. The investigating agency may reach investigative findings of Sustained, Not Sustained, Unfounded, or Exonerated. Depending on the circumstances, BIA or COPA may close certain investigations without reaching a finding on the allegations.

II | Background

CPD members' credibility and truthfulness are integral to their role as law enforcement officers, bearing on their ability to perform their duties and on public trust in and legitimacy of the Department. As the Chicago Police Board has recognized,

Trustworthiness, reliability, good judgment, and integrity are all material qualifications for any job, particularly one as a police officer. The duties of a police officer include making arrests and testifying in court, and a police officer's credibility is inevitably an issue in both the prosecution of crimes and in the Police Department's defense of civil lawsuits. A public finding that an officer has knowingly made a false official statement is detrimental to the officer's ability to perform his responsibilities, including his credibility as a witness, and, as such, is a serious liability to the Department.⁷

Further, CPD's Rules and Regulations state,

The public demands that the integrity of its law enforcement officers be above reproach, and the dishonesty of a single officer may impair public confidence and cast suspicion and disrespect upon the entire Department.⁸

Accordingly, Rule 14 of CPD's Rules and Regulations "expressly prohibit[s]... [m]aking a false report, written or oral."⁹ The rule applies to all CPD members, both sworn and civilian.

A | Chicago's Police Disciplinary System and Investigation of Rule 14 Violations

Chicago's police disciplinary system involves several agencies and a multi-step process for determining discipline for Sustained allegations of misconduct, including violations of Rule 14. Therefore, the determination to allege, sustain, and assign discipline for a Rule 14 violation is complex and may be altered at one of several points in the disciplinary process. For example, an investigating agency may determine that a CPD member violated Rule 14 and recommend separation; however, the violation or the recommended discipline may be overturned during the Police Board's adjudicatory process. Figure 1 provides a simplified, high-level overview of the disciplinary system, from complaint through implementation of discipline.¹⁰

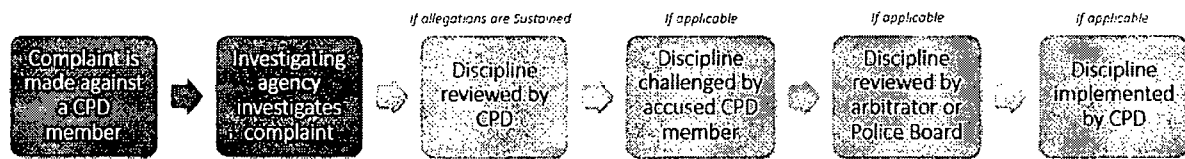
⁷ Chicago Police Board, Case No. 19 PB 2963 (CR No. 1081599), May 21, 2020, accessed February 6, 2023, <https://www.chicago.gov/content/dam/city/depts/cpb/PoliceDiscipline/19PB2963.pdf>.

⁸ Chicago Police Department, "Rules and Regulations of the Chicago Police Department," April 16, 2015, accessed February 6, 2023, <http://directives.chicagopolice.org//directive/public/6412>.

⁹ Chicago Police Department, "Rules and Regulations of the Chicago Police Department."

¹⁰ For more details on Chicago's disciplinary system, see OIG's report on fairness and consistency in the discipline process and a series of flowcharts outlining the process from complaint through implementation. City of Chicago Office of Inspector General, "Fairness and Consistency in the Disciplinary Process for Chicago Police Department Members," June 16, 2022, accessed February 6, 2023, <https://igchicago.org/wp-content/uploads/2022/06/Fairness-and-Consistency-in-the-Disciplinary-Process-for-Chicago-Police-Department-Members-Copy.pdf>. City of Chicago Office of Inspector General, "A Guide to the Disciplinary Process for Chicago Police Department Members," accessed February 6, 2023, <https://igchicago.org/about-the-office/our-office/public-safety-section/cpd-disciplinary-process-overview/>

Figure 1: High-level overview of Chicago's disciplinary system



Source: OIG analysis.

Depending on the nature of the alleged misconduct, cases may be investigated by either BIA or COPA.¹¹ Within CPD, BIA is responsible for "coordinat[ing] and exercis[ing] supervision over disciplinary matters involving alleged or suspected violations of statutes, ordinances, and Department rules and directives."¹² COPA is a civilian-led City agency that is independent of the Police Department and has jurisdiction to investigate allegations of certain categories of police misconduct, including the use of excessive force and improper search or seizure. The issue of a false report might arise independently or in connection with allegations of other types of misconduct, and potential violations of Rule 14 may be investigated by either BIA or COPA.¹³

1 | Investigations into Alleged Misconduct

The disciplinary process for CPD members begins with the initiation of an investigation into possible misconduct. Typically, investigations begin following a complaint alleging misconduct filed against CPD members, which may include violations of CPD's Rules and Regulations, Department directives, and orders given by a superior. Allegations of Rule 14 violations may serve as the basis of the initial complaint or can be raised during an investigation into different alleged misconduct. If an allegation of a Rule 14 violation arises during the course of an investigation, it is typically due to either the investigating agency reviewing evidence (e.g., body worn camera (BWC) footage and a written report) and discovering inconsistencies that indicate a possible false statement, or the accused CPD member giving a statement to the investigating agency that contradicts other evidence.

If an allegation of a Rule 14 violation does serve as the basis of the initial complaint, it may be due to an adverse credibility finding. Adverse credibility findings, or negative credibility determinations, as discussed herein involve a judge's or other authority's determination that a CPD member is not credible.¹⁴ According to both CPD and the Cook County State's Attorney's Office (CCSAO), when a judge makes an adverse credibility finding against a CPD member, CCSAO will forward the finding to CPD's General Counsel in the Legal Affairs Division.¹⁵ CPD, in turn, forwards the finding to COPA

¹¹ Additionally, the Office of Inspector General (OIG) may also investigate allegations of misconduct. Municipal Code of Chicago §2-56-030(b), accessed February 6, 2023, https://codelibrary.amlegal.com/codes/chicago/latest/chicago_il/0-0-0-2443371.

¹² Chicago Police Department, "General Order G01-02-01 Organization and Functions of the Office of the Superintendent," May 10, 2018, accessed February 6, 2023, <http://directives.chicagopolice.org/#directive/public/6611>.

¹³ In keeping with the objectivity and independence standards governing OIG's work, OIG describes but does not evaluate its own role in investigating misconduct allegations and recommending discipline in Sustained cases.

¹⁴ See Consent Decree ¶ 587 for use of the term "negative credibility determination."

¹⁵ CPD and CCSAO described different processes for how CCSAO informs CPD of adverse credibility findings. The absence of a clear process for this notification suggests a lack of effective communication between the two agencies.

to initiate an investigation.¹⁶ These findings do not automatically indicate a CPD member willfully lied about a material matter or lied at all, but only that the trier of fact did not find their testimony credible; thus, an adverse credibility finding might but does not necessarily indicate a Rule 14 violation.¹⁷

The Police Board, as a trier of fact, may also make an adverse credibility finding in its written opinion against a CPD member if the Board believes that the member was untruthful in their testimony during a Board hearing. This would result in a new complaint with its own investigation; this investigation would be independent of the original case brought before the Board. In an interview with OIG, members of the Police Board stated that an adverse credibility finding should render the member unable to testify in court, and therefore unable to fulfill a core law enforcement duty.

Regardless of whether an allegation of a Rule 14 violation arises from an initial complaint or during the course of an investigation, the investigating agency (i.e., BIA or COPA) gathers evidence to determine if the allegation should be sustained.¹⁸ Figure 2 outlines the findings BIA and COPA use for each allegation of misconduct.

Figure 2: Allegation findings

- **Unfounded:** When the allegation is false or not factual;
- **Exonerated:** When the incident occurred, but the actions of the accused were lawful and proper;
- **Not sustained:** When there is insufficient evidence to either prove or disprove the allegation; or
- **Sustained:** When the allegation is supported by a preponderance of the evidence.

Source: OIG analysis of CPD Directive G08-01-01 "Complaint and Disciplinary Definitions."¹⁹

CPD's Department Member Bill of Rights "delineates certain rights afforded to Department members in the Department's complaint and disciplinary system."²⁰ These rights include the criteria an investigating agency must meet to sustain a Rule 14 violation. Specifically, in order to find that a statement by a member constitutes a violation of Rule 14, the investigating agency must find that:

- The statement is false;

¹⁶ COPA acts as a clearinghouse for all allegations of misconduct against CPD members; COPA personnel review all complaints and determine, based on the subject matter of the complaint, whether a complaint falls into its own investigative jurisdiction, and should therefore be retained for investigation, or should be referred to BIA. Due to the jurisdictional divide between BIA and COPA, BIA investigates adverse credibility findings.

¹⁷ A trier of fact in a proceeding is the entity responsible for appraising the facts underlying the case.

¹⁸ Throughout this report, OIG uses "Sustained Rule 14 violations" to denote BIA and COPA's disciplinary outcomes at the conclusion of the agencies' investigation

¹⁹ Chicago Police Department, "General Order G08-01-01 Complaint and Disciplinary Definitions," December 31, 2022, accessed February 6, 2023, <https://directives.chicagopolice.org/#directive/public/6764>

²⁰ Chicago Police Department, "General Order G08-01-05. Department Member Bill of Rights," June 30, 2022, accessed February 6, 2023, <http://directives.chicagopolice.org/#directive/public/6981>

- The statement was made willfully;²¹ and
- The statement made is regarding a material issue.

Regarding materiality, Paragraph 487 of the consent decree requires investigators to determine “whether a CPD member willfully made a false statement about a fact material to the incident under investigation.”²² Notably, COPA wrote in one Summary Report that, “arguably, the majority of all responses made by an officer during an investigator’s line of questioning in the course of a misconduct investigation are material.”²³ It is also important to note false statements made by CPD members may be attributed to misperception or an incorrect recollection, rather than a willful false statement. BIA and COPA cannot sustain an allegation of a Rule 14 violation if the agency cannot determine that the false statement was made willfully, even if the statement is regarding a material issue. Further, BIA, COPA, and Police Board leadership each affirmed in their interviews with OIG that material omissions may also constitute a violation of Rule 14.

2 | Recommending Discipline

When BIA or COPA sustains an allegation, the agency recommends what it believes to be appropriate discipline, ranging from a violation noted in a member’s disciplinary history to separation (see Figure 3). Violations noted and reprimands are the least severe outcomes and are entered into the member’s disciplinary history; suspensions require a specified number of unpaid days off; and separations require discharge from CPD.²⁴

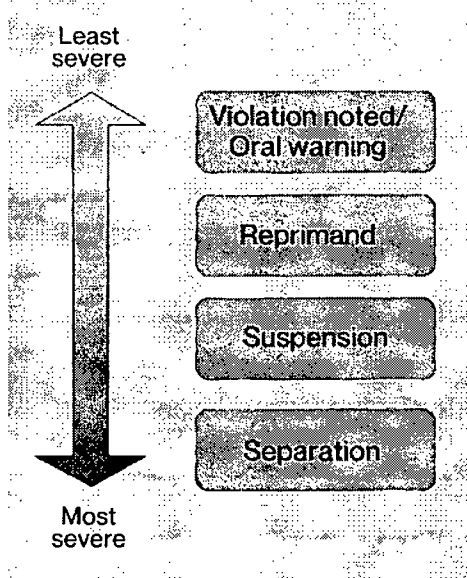
²¹ According to the United States Department of Justice, “The term ‘willfully’ means no more than that the forbidden act was done deliberately and with knowledge, and does not require proof of evil intent.” United States Department of Justice, “Justice Manual, 910 Knowingly and Willfully,” January 21, 2020, accessed February 6, 2023, <https://www.justice.gov/archives/jm/criminal-resource-manual-910-knowingly-and-willfully#~:text=An%20act%20is%20done%20%22willfully,do%20something%20the%20law%20forbids.>

²² Consent Decree at ¶487.

²³ Civilian Office of Police Accountability, “Summary Report of Investigation Log #1084433”, March 25, 2022, 23, accessed February 6, 2023, <https://www.chicagocopa.org/wp-content/uploads/2022/03/Final-Redaction-SRI.pdf>. In response to this report, COPA noted its statement in the Summary Report “is essentially dictum as it was not necessary to resolve the point at issue. The sentence that immediately follows clarifies that the statement at issue (the officer’s claim to have not witnessed certain misconduct) was material to COPA’s allegation that the officer failed to intervene or report such misconduct.”

²⁴ The Superintendent can grant “options” to CPD members which allow alternatives to the suspension without pay, such as forfeiture of vacation time. Chicago Police Department, “Special Order S08-01-08 Post-Investigation Log Number Procedures,” December 31, 2022, accessed January 31, 2023, <https://directives.chicagopolice.org/#directive/public/6619>

Figure 3: Types of discipline



**Note: Non-Sworn members receive Oral warnings instead of Violations noted.*
 Source: OIG analysis of CPD directives and union contracts.

According to BIA, it has recommended separation for Sustained Rule 14 cases since 2008.²⁵ COPA also stated that the agency views separation as the appropriate discipline for a Rule 14 violation (see Finding 1 for more information).

3 | Issuing Discipline

The process for implementing recommended discipline is complex and implicates the investigating agency, applicable collective bargaining agreements (CBAs), and provisions of the consent decree. Therefore, the recommended discipline may differ from the issued discipline, i.e. the discipline CPD, as the employer, issues to the accused member, the employee. For example, in November 2020, COPA recommended that a CPD member receive a 90-day suspension for four Sustained Rule 14 violations in a single case. After going through the steps required for reviewing the investigation and recommended discipline, then-Superintendent Brown increased the issued discipline from a 90-day suspension to separation.

In his letter to COPA explaining the increase in discipline, Brown stated,

Since approximately 2008, CPD has sought the separation of officers with sustained Rule 14 violations because such a violation impairs an officer's ability to testify in criminal cases, to effectuate arrests, hinders an officer from signing affidavits in support of search warrants, and participating in joint federal task forces. Federal and state prosecutors routinely inquire whether an officer has a sustained Rule 14 violation and generally will not call an officer with such a violation to testify in criminal cases because the facts of that violation would be subject to cross-examination and may negatively affect the officer's credibility... Due to

²⁵ In the matter of charges against Sergeant Stephen Franko, Officer Janet Mondragon, Officer Daphne Sebastian, Officer Ricardo Viramontes at 17, Apr. 11, 2019

these restrictions on officers with sustained Rule 14 violations, CPD must seek the separation of [the member].²⁶

4 | Challenging Discipline and Mandatory Police Board Reviews

Depending on their rank and the level of discipline at issue, the CPD member may have several options available if they choose to challenge or grieve the outcome of a misconduct investigation.²⁷ For those cases reviewed by the Police Board, which include but are not limited to all cases in which the recommended discipline is separation, the Police Board can uphold, reduce, or overturn the recommended discipline.

In reviewing Rule 14 cases, the Police Board considers the statement at issue against the same criteria used by BIA and COPA to determine whether a member's statement constitutes a violation of Rule 14 in the first place. That is, the Board considers whether the statement is false, made willfully, and regarding a material issue. Once the Police Board renders a decision, that decision may be challenged only by appealing to the Circuit Court of Cook County.²⁸

In a June 2020 interview with OIG, Police Board members stated it takes a long time for cases, including those with Sustained Rule 14 violations, to be sent for the Board's review.²⁹ This time-lapse impacts the quality of the Board's process and outcomes because both CPD members and witnesses may not remember the incident well. Police Board members stated these delays can undermine their certainty in determining an appropriate decision.

B | CPD Members' Credibility and the Impact on the Legal System

A determination that a CPD member has violated Rule 14 by making false statements or reports necessarily impacts that member's credibility in writing future police reports and when testifying in court. Specifically, the U.S. Supreme Court has ruled in *Brady v. Maryland*, *Giglio v. United States*, and their progeny that a prosecuting authority is required to disclose evidence favorable to a criminal defendant where that evidence is material to either guilt or punishment.³⁰ This extends to any evidence that may impeach the credibility of a prosecution witness, which would include evidence that a testifying CPD member has been found to have violated Rule 14. If a CPD member's Rule 14 history is not disclosed, the Department risks violating the law which may

²⁶ Civilian Office of Police Accountability, "Superintendent Increase of Proposed Penalty", June 10, 2021, accessed February 6, 2023, https://www.chicagocopa.org/wp-content/uploads/2022/09/2019-0004852_Superintendent-Increas-of-Proposed-Penalty.pdf.

²⁷ See OIG's report "Disciplinary Grievance Procedure for CPD Members" for more information on the grievance process. City of Chicago Office of Inspector General, "Disciplinary Grievance Procedure for CPD Members," May 20, 2021, accessed February 6, 2023, <https://igchicago.org/wp-content/uploads/2021/05/OIG-Review-of-the-Disciplinary-Grievance-Procedure-for-Chicago-Police-Department-Members.pdf>.

²⁸ Within this report, OIG uses the term "final disciplinary outcome" to refer to allegations that have been sustained after all available review and appeal pathways—including any grievance procedures and Police Board review—have been exhausted and/or waived.

²⁹ For cases decided by the Police Board in 2020, the mean length of time from the underlying incident to the Board's decision was 5.3 years, the median length of time was 4.1 years. Chicago Police Board, "2021 Annual Report," 2021, accessed February 6, 2023,

<https://www.chicago.gov/content/dam/city/depts/cpb/AnnualReports/CPBAnnualReport2021.pdf>.

³⁰ *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972)

compromise criminal convictions, undermine criminal litigation, create financial liability in civil suits, and erode public trust.

The State of Illinois has codified obligations around the disclosure of such information. Illinois state law requires that law enforcement agencies must provide the prosecution with exculpatory evidence in their possession.³¹ Additionally, Illinois Supreme Court Rule 412 states, "the State shall disclose to defense counsel any material or information within its possession or control which tends to negate the guilt of the accused as to the offense charged or which would tend to reduce his punishment therefor."³²

³¹ 725 ILCS 5/114-13, accessed February 6, 2023,

<https://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=072500050K114-13>.

³² Illinois Supreme Court, "Rule 412 - Disclosure to Accused, Ill. Sup. Ct. R. 412," accessed February 6, 2023,

<https://casetext.com/rule/illinois-court-rules/illinois-supreme-court-rules/article-iv-rules-on-criminal-proceedings-in-the-trial-court/part-b-discovery/rule-412-disclosure-to-accused>

III | Objectives, Scope, and Methodology

A | Objectives

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

- BIA and COPA consistently allege Rule 14 violations when a CPD member makes a false statement or a material omission;
- Sustained allegations involving false statements consistently result in separation of the accused member from CPD; and
- relevant agencies share information about Rule 14 violations and adverse credibility findings or notice of disclosures.

B | Scope

The scope of OIG's inquiry includes the policies and practices of the following entities as relevant to the enforcement of Rule 14:

- COPA,
- CPD's BIA,
- CPD's Legal Affairs Division, and
- The Police Board.

OIG does not, in this inquiry, offer any determination as to whether individual investigations should have resulted in Sustained Rule 14 allegations. Additionally, as OIG conducts misconduct investigations which include alleging and sustaining Rule 14 violations, in keeping with the objectivity and independence standards governing OIG's work, OIG describes but does not evaluate its own role in investigating misconduct allegations and recommending discipline in Sustained cases.

C | Methodology

OIG conducted interviews with representatives of CPD's Legal Affairs Division, BIA, COPA, the Police Board, and CCSAO to determine how allegations of Rule 14 violations are investigated, reviewed, tracked, and shared among agencies. Additionally, OIG reviewed CPD, COPA, and the Police Board's policies, training material, and related material pertaining to these processes.

OIG also reviewed investigative files for disciplinary investigations which involved Rule 14 violations, specifically:

- Files from investigations initiated between March 1997 to May 2021 to determine which members with Rule 14 histories were employed with CPD as of May 2021 (see Finding 1 for more information);³³

³³ March 1997 is the earliest investigation date of a CPD member still employed with the Department following their final Rule 14 disciplinary outcome as of May 2021.

- Files from investigations closed between January 2008 to August 2022 to determine the investigating agency's recommended discipline and the final issued discipline (see Finding 1 for more information);³⁴
- Files from investigations closed between March 2020 to August 2022 to determine if BIA and COPA documented considerations for alleging Rule 14 violations (see Finding 3 for more information); and³⁵
- Police Board decisions from July 2016 to May 2021 to determine the Board's decisions on cases involving Rule 14.³⁶

For current and recently employed CPD members with Rule 14 histories, OIG reviewed the assignment, detail, and promotional histories of these members from the dates of their respective final Rule 14 disciplinary outcome(s) to May 2021.

D | Standards

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

E | Authority and Role

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

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

³⁴ January 2008 is the point-in-time estimate identified by BIA as when the unit began recommending separation. May 2021 represents the conclusion of OIG's initial analytical work in this evaluation, however, OIG's Investigative Analysis Unit continued to flag investigations that were applicable to this inquiry through August 2022.

³⁵ March 2020 is when OIG initiated its evaluation of Rule 14 and therefore began identifying closed BIA and COPA investigations involving Rule 14 violations specifically to inform this evaluation.

³⁶ July 2016 is the earliest date of data provided to OIG by the Police Board.

IV | Findings and Recommendations

Finding 1: Structural failures in Chicago's police accountability system allow CPD members with Rule 14 histories to remain in positions with duties that depend upon their truthfulness and credibility.

CPD, COPA, and the Police Board each take the position in their policies and decisions that a Department member's honesty is integral to their duties, and that a Rule 14 violation can erode public trust and create risks for CPD. However, the practices of these agencies allow for Department members with Rule 14 histories to remain employed, often assigned to positions with duties that include, but are not limited to, writing reports and testifying in court—duties in which a member's truthfulness and credibility are of paramount importance. This renders the policies and public statements of the agencies comprising Chicago's police accountability system irreconcilable with the actual practices and outcomes of that system.

CPD's directive pertaining to its mission statement and core values highlights the importance of trust in its work to partner with communities and in being perceived as legitimate by the community it serves: "We strive to earn the trust and respect of those whom we serve... [W]e strive to partner with the communities we serve through transparency, accountability, and building mutual trust."³⁷ Additionally, CPD's "General Order G02-03: Community Policing Mission and Vision" states, "[the] Department will continue the practice of employing the concepts of Procedural Justice and Legitimacy with a focus on... trustworthiness."³⁸

However, despite identifying trustworthiness and honesty among its foundational principles, CPD employs members with a history of making false statements—some of these members have been assigned, detailed, or promoted into positions, such as Beat Officers or Detectives, whose core duties include, but are not limited to, testifying in court and writing reports. In doing so, CPD risks undermining its core law enforcement function by potentially compromising successful criminal convictions, eroding public trust, and violating its constitutional and legal obligations.

The following sections outline how structural deficiencies in Chicago's police accountability system allow members with Rule 14 histories to be placed in positions with duties that depend on their truthfulness and credibility.

³⁷ Chicago Police Department, "General Order G01-01 Vision, Mission Statement, and Cores Values," May 21, 2019, accessed February 6, 2023, <http://directives.chicagopolice.org/#directive/public/6419>.

³⁸ Chicago Police Department, "General Order G02-03 Community Policing Mission and Vision," June 30, 2022, accessed February 2, 2023, <http://directives.chicagopolice.org/#directive/public/6898>.

A | The agencies which comprise CPD's disciplinary system state honesty and trustworthiness are essential for a CPD member to perform their duties

CPD, COPA, and the Police Board have each adopted policies and, in some cases, made public statements reflecting the view that a Department member's honesty is integral to their ability to perform their duties and that a member's making a false report can erode public trust and create risk for CPD.

1 | CPD Training Materials and Statements

CPD's BIA September 2020 curriculum for its "Introduction of Rules and Regulations" training states, "[A] Sustained Rule 14 violation must be disclosed in court, deems an officer no longer a credible witness in legal proceedings, no longer capable of being an affiant on a warrant, impeachable as a witness, a liability to the Department and therefore ineffective as a law enforcement officer."³⁹

The seriousness of violating Rule 14 is reflected in BIA leadership's April 2019 testimony in front of the Police Board. BIA's then-Deputy Director stated, "dishonesty of a single officer can impair—you know, can impair the department as to impairing public confidence and causing disrespect from the public and also casts suspicions on the police department. And when that occurs, that severely impairs the police department's ability to perform its mission, which is to protect the communities, you know, and serve."⁴⁰

2 | COPA Policies and Statements

COPA's policy on "Disciplinary and Remedial Recommendations" notes that among the aggravating factors which could impact the level of discipline, COPA recommends when it sustains misconduct allegations is "conduct that suggests a lack of candor and serves to erode public trust."⁴¹ Further, in interviews with OIG, COPA's then-Deputy Chief Administrator stated Rule 14's purpose is to ensure integrity and honesty in CPD members' conduct and that its enforcement works towards building trust between the Department and the community.⁴² They also stated that the truthfulness of officers is the bedrock of the criminal justice system.

3 | Police Board Decisions

In Police Board decisions which involved Sustained Rule 14 violations, the Police Board has made the following statements:

³⁹ Chicago Police Department Bureau of Internal Affairs, "[Draft] Introduction of Rules and Regulations," September 30, 2020. BIA's use of a "Sustained Rule 14 violation" in this context indicates a final Rule 14 disciplinary outcome, after all pathways of appeal have been exhausted and/or waived.

⁴⁰ In the matter of charges against Sergeant Stephen Franko, Officer Janet Mondragon, Officer Daphne Sebastian, Officer Ricardo Viramontes at 15, Apr. 11, 2019.

⁴¹ Civilian Office of Police Accountability, "Disciplinary and Remedial Recommendations," June 24, 2021, accessed February 6, 2023, http://www.chicagocopa.org/wp-content/uploads/2021/07/COPA-Policy_Disciplinary-and-Remedial_FINAL_2021-06-24.pdf

⁴² As of February 23, 2022. COPA's then-Deputy is currently serving as COPA's Chief Administrator

- “Trustworthiness, reliability, good judgment, and integrity are all material qualifications for any job, particularly one as a police officer. The duties of a police officer include making arrests and testifying in court, and a police officer’s credibility is inevitably an issue in both the prosecution of crimes and in the Police Department’s defense of civil lawsuits. A public finding that an officer has knowingly made a false official statement is detrimental to the officer’s ability to perform his responsibilities, including his credibility as a witness, and, as such, is a serious liability to the Department.”⁴³
- “We [the Police Board] wish to make clear... that the Board’s goal is to impress upon members of the Department of the importance of telling the complete truth inclusive of the relevant circumstances and context. The Board regards a Rule 14 violation among the most significant actions to be judged by the Board. An officer’s responsibility to tell the truth is at the heart of Rule 14 and at the heart of community trust in the police.”⁴⁴
- “Conduct such as [a Rule 14 violation] fosters public distrust and a lack of confidence in the integrity of the Chicago Police Department, thereby significantly harming the Department’s efforts to achieve the important goals of preventing crime, preserving the public peace, identifying and arresting those who commit crimes, and promoting respect and cooperation of all Chicagoans for the law and those sworn to enforce it.”⁴⁵

B | The agencies comprising Chicago’s police accountability system do not ensure that CPD members with Sustained Rule 14 violations are separated from the Department

The agencies comprising Chicago’s police accountability system do not ensure that CPD members with Sustained Rule 14 violations are separated from the Department, despite statements of intention to the contrary. As illustrated by the case studies below, those agencies do not, in fact, consistently seek or implement separation. Although these may be exceptional cases, they raise serious concerns about the rigor, fairness, and consistency with which Rule 14 is enforced.

1 | CPD’s Bureau of Internal Affairs

In testimony from April 2019 in front of the Police Board, BIA’s then-Deputy Director stated, “Since approximately 2008, if an individual has a Sustained Rule 14 violation, we recommend separation.”⁴⁶

Before 2008, BIA made recommendations of less than separation for Sustained Rule 14 violations. This accounts for some—but not all—of the CPD members still employed with the Department following a Sustained Rule 14 violation. BIA has also recommended discipline less than separation for Sustained Rule 14 violations at least three times since 2008, including:

⁴³ Chicago Police Board, Case No. 19 PB 2963 (CR No. 1081599), May 21, 2020, accessed February 6, 2023, <https://www.chicago.gov/content/dam/city/depts/cpb/PoliceDiscipline/19PB2963.pdf>.

⁴⁴ Chicago Police Board, Case No. 16 PB 2909-2912 (CR No. 1081772), July 18, 2019, accessed February 6, 2023, <https://www.chicago.gov/content/dam/city/depts/cpb/PoliceDiscipline/16PB29082912Decision.pdf>.

⁴⁵ Chicago Police Board, Case No. 16 PB 2909-2912 (CR No. 1081772).

⁴⁶ In the matter of charges against Sergeant Stephen Franko, Officer Janet Mondragon, Officer Daphne Sebastian, Officer Ricardo Viramontes at 17. Apr 11, 2019

- a five-day suspension for an investigation closed in 2012, in which BIA and the accused member engaged in a mediation process and agreed to the five-day suspension;⁴⁷
- a three-day suspension for an investigation closed in 2017, in which BIA's recommended discipline was reduced from three days to one day through the grievance process;
- a 180-day suspension for an investigation closed in 2019, in which the Sustained Rule 14 violation was grieved and ultimately changed to Not Sustained; as a result, the 180-day suspension was removed.

These three investigations represent five percent (three of 60) of the BIA investigations OIG was able to both review based on complete data in the respective case file and identify as having a Sustained Rule 14 violation. These investigations do not represent the complete universe of BIA investigations involving Sustained Rule 14 violations; because many case files are inaccurate or incomplete, as discussed further in Finding 2 below, OIG was unable to identify a complete universe.

2 | COPA

COPA does not have policies that give guidance on the appropriate recommended discipline for investigations involving Sustained Rule 14 allegations. COPA's predecessor agencies, the Independent Police Review Authority (IPRA) and the Office of Professional Standards (OPS), recommended less-than-separation for Sustained Rule 14 violations, contributing to the total number of CPD members still employed with the Department following their Sustained Rule 14 violations. In a May 2020 interview with OIG, COPA's then-Deputy Chief Administrator, now serving as the agency's Chief Administrator, stated that the appropriate discipline for a Sustained Rule 14 violation is separation.

OIG identified two recent investigations in which COPA recommended discipline less than separation for Sustained Rule 14 violations:

Case Study #1

Following its investigation of a November 2019 incident, COPA sustained four separate Rule 14 violations in a single case against a single CPD member, and recommended that the member receive a 90-day suspension.⁴⁸ The accused member, then a Probationary Police Officer (PPO), repeatedly stated that a victim was conscious after another Officer "slammed" the inebriated victim to the ground where the victim's head hit the curb; the victim then lay on the street motionless. These statements aligned with those made by the accused member's Field Training Officer (FTO). However, in COPA's analysis, the agency stated there was "clear and uncontroverted evidence" from video footage that showed the victim was unconscious and not "alert and/or responsive" as indicated by the responding officers. In its explanation for its recommendation, COPA stated, "[i]ntentionally making false statements, even when done by way of adopting statements of others, tears at the fabric of credibility throughout the Department... The Department and the People of the City of Chicago deserve better from its officers." Despite this proclamation, COPA determined the

⁴⁷ Mediation is a component of CPD's disciplinary system offered to CPD members in designated types of investigations that are likely to result in a Sustained finding. CPD members who enter into a mediation agreement waive their right to grieve the findings and recommended discipline.

⁴⁸ COPA completed this investigation in November 2020

PPO was following the direction of their superior, the FTO, and therefore recommended a 90-day suspension for the PPO.⁴⁹

Case Study #2

In August 2022, COPA recommended a 60-day suspension for a member it found had, in violation of Rule 14, lied about witnessing another member's excessive use of force. The original incident occurred in 2017, when CPD members were called to break up a fight outside a school. After detaining and handcuffing a juvenile, one of the members punched the juvenile after placing them in the squad car. When a misconduct complaint was filed, members who witnessed the incident were each allowed to watch the available BWC footage of the incident and then were interviewed by COPA.⁵⁰ One accused Police Officer, now a Sergeant, repeatedly denied witnessing the use of force incident in their interview. The BWC evidence contradicts this statement as another member's video shows them "looking into the open squad car door...at the approximate time that [the member] strikes [the juvenile]."⁵¹ COPA concluded that "[the accused Officer] repeatedly failed to provide an accurate account of what [they] witnessed," and therefore sustained an allegation that they had violated Rule 14. In reaching its disciplinary recommendation, COPA noted the Officer's promotion to Sergeant and stated, "As a supervisor, [the Sergeant is] held to a higher standard than [their] subordinates and should be an example to [their] subordinates. It is [their] responsibility to implement the policies and goals of CPD." Nonetheless, COPA recommended a 60-day suspension and not separation.⁵²

3 | Police Board

In a September 2016 decision, the Police Board wrote,

As with all cases, this Board decides cases involving Rule 14 allegations on a case by case basis and applies the relevant law with of course recognition of past Board precedent. Each case presents nuanced circumstances and must be equally evaluated in large measure on the facts developed in the record... One also cannot underestimate the completely untenable problem with sending the message to police officers that some lies are okay, but others are not. A critical function of this Board's written decisions is to provide department members with guidance on how to conduct themselves. What guidance would the Board be giving with a mixed message that some lies are perfectly fine? And why would such an approach not lead to the proverbial slippery slope?⁵³

⁴⁹ Charges against the accused member were filed with the Police Board but dismissed when the member resigned from the Department in 2022.

⁵⁰ Pursuant to the City's collective bargaining agreement with the Fraternal Order of Police, Officers may not be charged with Rule 14 violations if they are not allowed to review available video or audio evidence before providing a statement. City of Chicago, "Agreement Between the City of Chicago Department of Police and the Fraternal Order of Police Chicago Lodge No. 7," accessed February 7, 2023, https://iqchicago.org/wp-content/uploads/2022/03/Combined-2021-Redline-FOP-Contract-Amendments_2012-2017-Contract.pdf.

⁵¹ Civilian Office of Police Accountability, "Summary Report of Investigation Log #1087910," August 31, 2022.

⁵² As of May 22, 2023, this case is pending CPD Legal Affairs Division review.

⁵³ Chicago Police Board, No. 16 PB 2903 (CR No. 1074613). September 2016, accessed February 6, 2023, <https://www.chicago.gov/content/dam/city/depts/cpb/PoliceDiscipline/16PB2903.pdf>.

In a June 2020 interview with OIG, Police Board members stated that although most Sustained Rule 14 violations result in separation, the Board tends to give more leniency if the false statement relates to a personal matter rather than directly to a CPD member's official duties.

OIG identified an instance in which the Police Board recommended discipline less than separation for an on-duty Sustained Rule 14 violation.

Case Study #3

In May 2018, the Police Board found that an Officer and a Sergeant violated Rule 14 when they made false sworn statements in both an administrative investigation and a deposition during a civil lawsuit. The underlying administrative investigation involved allegations that the Officer and Sergeant violated policy during a vehicle chase, resulting in a vehicle collision that injured an uninvolved party. The party's family later sued the City of Chicago and the involved CPD members. The Board found the Officer guilty of two counts of Rule 14 violations and the Sergeant guilty of three counts of Rule 14 violations. In its decision, the Board wrote, "Respondents have been found guilty of violating Rule 2, Rule 3, and Rule 14 by providing false and misleading testimony during their depositions in a civil case and their interviews with IPRA, COPA's predecessor. This is extremely serious misconduct. The duties of a police officer include making arrests and testifying in court, and a police officer's credibility is at issue in both the prosecution of crimes and in the Police Department's defense of civil lawsuits."

Although the Board made reference to its own September 2016 language, cited above here, in this May 2018 decision, the Board suspended the Officer and the Sergeant each for a three-year period, rather than separating them from CPD. The Board noted that a mitigating factor that led to the suspension rather than separation was the "heartfelt, emotional" testimony of a CPD Sergeant, acting as a character witness, who stated, "I have seen both [CPD members] in situations ranging from shootings to holding a grandmother's hand who just needed someone to talk to. Those are God-given gifts. We try to teach those in the Academy. We do the best we can. But you can only teach and model so much. [Both CPD members] have gifts from God that they could do that with ease and grace and compassion and strength."⁵⁴

4 | CPD's Management and Labor Affairs Section

After the disciplinary agencies complete their investigations and determine a CPD member has violated Rule 14, CBAs between the City and police unions allow sworn members to challenge certain disciplinary recommendations.⁵⁵ The grievance procedure detailed in the CBAs does not apply to separations from service (i.e., termination of employment) or long-term suspensions, which are exclusively decided by the Police Board. However, in circumstances where discipline is eligible to be challenged, part of the grievance procedure allows for CPD and the relevant union to reach a settlement agreement before the formal disciplinary process is complete; these settlements can result in reduced or eliminated discipline. Critically, the terms of settlement agreements may also include the removal of rule violations from sworn members' disciplinary records.

⁵⁴ Chicago Police Board, No. 16 PB 2923 & 2924 (CR No. 300039), May 2018, accessed February 6, 2023, <https://www.chicago.gov/content/dam/city/depts/cpb/PoliceDiscipline/16PB29232924.pdf>.

⁵⁵ City of Chicago Office of Inspector General, "Disciplinary Grievance Procedure for CPD Members "

Through its review of files from investigations closed between January 2008 and May 2021, OIG identified nine CPD members who had their Sustained Rule 14 violations expunged from their disciplinary history as part of a settlement agreement.⁵⁶ Although all cases originated in or after 2008, the investigating agency sustained Rule 14 violations against the members and recommended suspensions, rather than separation, thus rendering the cases eligible to go through the grievance process. The CPD members elected to go through that process and challenged the recommended discipline; in each case, the Department agreed to enter into a settlement with the members and removed the Sustained Rule 14 violation from the members' disciplinary records as a term of each agreement.⁵⁷

Case Study #4

In 2012, IPRA sustained multiple counts of Rule 14 violations against two CPD members who made false statements regarding a late-night traffic stop. During the underlying event, which occurred in 2008, the CPD members pulled over a driver after witnessing the vehicle drive through a stop sign. The driver admitted to drinking alcohol that evening and provided the members with an expired driver's license at the time of the stop. The CPD members handcuffed the driver and searched the vehicle; when the driver protested, one of the members punched the driver in the face. The driver was not arrested or issued citations, and the CPD members left the scene. During interviews as part of IPRA's investigation, both CPD members denied punching the driver; however, a third-party witness corroborated the allegation. Further, the CPD members both stated the driver had a valid driver's license and was therefore released at the members' discretion. CPD data logs showed the members conducted a check on the driver's information at the time of the stop and the inquiry correctly revealed the license had expired. The investigator noted that the members "clearly lied to IPRA about [the invalid driver's] license in an attempt to obscure [their] failure to arrest [the driver] who ran a stop sign, admitted to drinking alcohol and having an expired driver's license." IPRA sustained two counts of Rule 14 violations against each CPD member for their false statements involving punching the driver and the validity of the driver's license. IPRA recommended a 20-day suspension for the member who punched the driver, and a 10-day suspension for the witnessing member. Both members challenged their suspensions through the grievance process and CPD approved a settlement agreement with the Officers. The terms of this agreement reduced each member's suspension to 3 days and specifically included an agreement to amend the involved members' suspension records, discipline, and complaint histories to remove the Rule 14 violations.

Because these violations were removed from the members' disciplinary records, none of the nine CPD members were identified by the Department as having Rule 14 histories. In each case, the disciplinary agency in charge of investigating misconduct found, by a preponderance of the evidence, that these members made false statements or reports. As previously discussed, a determination that a CPD member has violated Rule 14 necessarily impacts that member's credibility in writing future police reports and when testifying in court. As the U.S. Supreme Court held in *Giglio*, "When the 'reliability of a given witness may well be determinative of guilt or innocence,' nondisclosure of evidence affecting credibility falls within [the *Brady* rule]." The decision by the Department to remove these violations from a member's record as a means to avoid arbitration and without providing any justification may not absolve the Department of its constitutional obligation to disclose evidence to the State that may call into question a CPD

⁵⁶ Within settlement agreements, the terms "rescind," "remove," and "expunge" are all used interchangeably to discuss the removal of a rule violation from the grievant's record.

⁵⁷ CPD has discretion over whether to enter into a settlement agreement with the grievant.

member's credibility when testifying. OIG's review of these settlement agreements found they do not speak to the question of CPD's disclosure requirements. Therefore, it is unclear how the Department would handle its constitutional obligation if these CPD members are called to testify in court.

C | CPD currently employs or has recently employed a minimum of approximately 110 members with Rule 14 histories

As described above, CPD members with Sustained Rule 14 violations have not always been separated from the Department. As a result, as of November 2022, CPD employs or has recently employed a minimum of approximately 110 members with Rule 14 histories, five of whom have two separate cases resulting in final disciplinary outcomes of Rule 14 violations.⁵⁸ Many members are assigned as Beat Officers; some are in specialized units, such as a Federal Bureau of Investigation (FBI) Task Force, Tactical Team, or Gang Team. Other members were assigned to work as Detectives after their final Rule 14 disciplinary outcomes, and still others have been promoted, including one member who was twice promoted and one member who was promoted three times.

The following case studies are examples in which CPD members with Rule 14 histories are or recently have been in positions whose duties depend upon their truthfulness and credibility, including writing reports or testifying in court. These case studies were selected to highlight the members' careers at CPD following their final Rule 14 disciplinary outcomes.

Case Study #5

In 2005, a CPD Detective filed a complaint against an Officer after observing the Officer detain a Black juvenile, telling the juvenile "How would you like it if I f----- your mother and made her my b---, you f----- n-----?... What are you swelling up for, are you mad that I called you a f----- n-----?" The allegations directly related to this incident were sustained, along with a Rule 14 violation against the Officer for providing a false written statement of the encounter, which was contradicted by members of the public and CPD who witnessed the exchange. BIA initially recommended a five-day suspension, which was later increased to 10 days. After the case closed in 2008, the Officer continued to serve as a Beat Officer in three different CPD Districts before retiring in July 2021.

Case Study #6

In October 2000, allegations were brought against a CPD member for "detain[ing] and handcuff[ing] [two Black juveniles] without a police purpose, transport[ing] them in a police vehicle, and releas[ing] them in another location, knowing they had not committed a crime."⁵⁹ An allegation that the member violated Rule 14 by making false statements during an administrative investigation into the underlying events was sustained. The two juveniles and an independent witness all

⁵⁸ OIG reviewed CPD's investigative files (scanned versions of paper records) for these 110 members; however, CPD's files presented two issues. (1) CPD could not locate a subset of the files and (2) in some instances, the files were unclear or inconclusive as to whether the investigating agency's Sustained Rule 14 violation was ultimately upheld. For these reasons, OIG presents approximate numbers, where appropriate.

⁵⁹ This practice of picking up youth and dropping them off in unfamiliar or unsafe areas is consistent with the United States Department of Justice's investigation of CPD, see United States Department of Justice Civil Rights Division and United States Attorney's Office Northern District of Illinois, "Investigation of the Chicago Police Department," January 13, 2017, accessed February 6, 2023, <https://www.justice.gov/opa/file/925846/download>

contradicted the member's statement that the youths were returned to the location where they were originally detained; the victims' and witness's accounts all stated the juveniles were dropped off approximately four blocks away. The accused member challenged their five-day suspension, resulting in the penalty being reduced to a three-day suspension. Following the closing of this case in August 2008, the accused member remained a Beat Officer before being promoted to Sergeant in May 2014. As of November 2022, the accused member remains a Sergeant working in a CPD District.

Case Study #7

In August 2001, a neighbor filed a complaint against an off-duty CPD member alleging that the member grabbed them by the neck and pushed them to the ground during an argument. During the investigation into this complaint, the assigned OPS Investigator further alleged that the member filed a false police report against the neighbor and fired a pellet gun, in violation of City Ordinance 8-24-040.⁶⁰ In 2003, OPS sustained an allegation that the accused member violated Rule 14 by filing a false report against their neighbor, resulting in the neighbor being arrested for simple assault. An additional allegation of a Rule 14 violation was sustained against the member for providing a false statement when they denied firing the pellet gun, despite video evidence, and for submitting false evidence when they stated they did not own a pellet gun and instead provided a blow dart gun to OPS as evidence. CPD issued the accused member a 20-day suspension; the member challenged this discipline, but the 20-day suspension was upheld. The member is, as of this writing, active as a Bike Officer after having also been assigned, after being found in violation of Rule 14, to CPD's Education and Training Division and as a Beat Officer.

D | Collective Bargaining Agreements and CPD's Hiring Plan

CPD cites the police unions' CBAs and the Department's Hiring Plan as the authorities which restrict consideration of disciplinary history for certain assignments and promotions; however, none of these documents expressly prohibit this consideration.

In a July 2021 interview with OIG, CPD's General Counsel stated the CBAs prohibit the use of disciplinary histories for test-based assignments and promotions. Further, in September 2021, CPD's General Counsel stated the Department's Hiring Plan, specifically Chapter III Paragraph 9, also prohibits the use of disciplinary histories for test-based assignments and promotions. Chapter III Paragraph 9 states,

For Sergeant and Lieutenant, the test will be rank ordered. The vendor shall prepare a list in descending rank order of those Candidates who attain or exceed the predetermined minimum test score. All Eligible Candidates will be considered for the Position in rank order

⁶⁰ "(a) Except as provided [elsewhere], no person shall at any time discharge or set off anywhere within the city, or have in his possession for such purpose any toy firearm, air rifle, or toy cannon, that discharges projectiles either by air, spring, explosive, substance, or any other force " City of Chicago, Municipal Code of Chicago 8-24-040, accessed February 6, 2023, https://codelibrary.amlegal.com/codes/chicago/latest/chicago_il/0-0-0-2644651#JD_8-24-040

from the Eligibility List unless otherwise required by a CBA or a Merit Selection process or some other exception detailed in Chapter XII of this Hiring Plan is used.⁶¹

Based on OIG's review of these documents, neither the CBAs nor CPD's Hiring Plan expressly prohibit the use of disciplinary history in test-based assignments and promotions, such as Sergeant or Lieutenant.

For assignments or promotions that are not test-based, OIG found the consideration of a member's disciplinary history may vary depending on the assignment. For example, some applications specify that a candidate's disciplinary record cannot include multiple suspensions within the last five years. However, other notices of job opportunities simply require an "acceptable disciplinary record," which allows hiring individuals the discretion to determine what constitutes an "acceptable" record.

The policies which govern CPD's hiring and promotion practices do not prohibit the Department from being mindful in its staffing choices. If CPD chooses to retain members with Rule 14 histories, the Department must purposefully consider their disciplinary histories when determining appropriate assignments

| Recommendations

1. BIA and COPA should recommend separation of CPD members found to have violated Rule 14, consistent with the agencies' respective stated policy positions.
2. CPD should consistently separate members who have violated Rule 14, given the risks—including legal and reputational ones—associated with continuing to employ such members.
3. The Police Board should uphold recommended separations for members who have violated Rule 14, consistent with the Board's language in its decisions about the impact of Rule 14 violations.
4. If members who have violated Rule 14 remain employed with the Department, CPD should ensure they are assigned or detailed to a position that does not require them to write reports or testify in court. CPD should also periodically review the assignments and details of its members with Rule 14 histories, as applicable, to ensure they are not in positions which require them to write reports or testify in court.

⁶¹ City of Chicago "City of Chicago Police Department Hiring Plan for Sworn Titles," May 15, 2014, Chapter III, accessed February 6, 2023, https://www.chicago.gov/content/dam/city/depts/dhr/supp_info/HRpolicies/CPD_Hiring_Plan_with_apx.pdf.

| Management Response

A | CPD Management Response

1. *It has been the position of BIA and CPD that a sustained Rule 14 violation should include a recommendation of separation to the Superintendent for final evaluation and decision on the matter. The Department agrees that this should remain the process going forward. The Department requests the Complaint Register numbers of the case studies referenced in the draft report so that BIA can conduct a review and determine if any institutional changes need to be made.*
2. *The Department disagrees with this recommendation as it fails to take into consideration actions beyond the control of the Department. As stated in the draft report, members enjoy contractual rights under the respective Collective Bargaining Agreements which include a grievance mechanism for recommended discipline or a hearing before the Police Board. During these proceedings the Department sets forth its argument and evidence against the grievance but is subject to the final determination made by the independent third-party arbitrators or members of the Police Board. Further, the Department is represented during the grievance process and before the Police Board by counsel from the Department of Law or outside counsel. During this process the investigation and recommended findings are reviewed by counsel and may be the subject of settlement proceedings based on recommendations by counsel as well as legal sufficiency reviews.*
4. *The Department believes that the assignment of those employed by CPD with sustained Rule 14 violations is within the discretion of the Superintendent. That said, the Department agrees to take this recommendation into consideration as these officers are assigned. The Department agrees with the recommendation of a periodic review of the assignments and details of its members with sustained Rule 14 violations. The Department will conduct this periodic review annually.*

B | COPA Management Response

1. *COPA generally agrees with the proposition that CPD members found to have violated Rule 14 cannot effectively serve as police officers. Nevertheless, COPA is bound by collective bargaining agreements that provide that an officer may not be disciplined without just cause. COPA therefore must necessarily consider whether there is sufficient cause to discharge an officer in each case and cannot predetermine discipline without considering all facts and circumstances. COPA agrees with the Chicago Police Board's recommendation that OIG ask the City Council to amend the Municipal Code of Chicago to require that any officer found guilty of violating Rule 14 be discharged from CPD.*

C | Police Board Management Response

3. *As the Board has stated consistently in its decisions, several of which are quoted in the report, an officer's violation of Rule 14 is very serious misconduct that warrants severe disciplinary action. It is also important to recognize, however, that the Board is not in a position to commit to imposing a specific level of discipline in future cases that are not yet before the Board. The Board has a duty under the Municipal Code and its Rules of Procedure to base its decisions on the evidence and legal authority made part of the record at the hearing on the charges. The Board is required to take into account the specific facts and circumstances of each case when making a decision on discipline. As the Board has stated:*

Decisions about the proper disposition when there is a finding of a Rule 14 violation are among the most important decisions this Board faces. As with all cases, this Board decides cases involving Rule 14 allegations on a case by case basis and applies the relevant law with of course recognition of past Board precedent. Each case presents nuanced circumstances and must be equally evaluated in large measure on the facts developed in the record. The Board is of course mindful of the Department's position on Rule 14 cases where that position is developed in the record, but the Board recognizes and embraces its responsibility to independently consider and evaluate the facts, particularly where termination of an officer's employment is a possible disposition.

The OIG may wish to recommend that the City Council amend the Municipal Code of Chicago to require that any officer found guilty of violating Rule 14 be discharged from the CPD. Such a requirement exists for violating Rule 25 ("Failure to actually reside within the corporate boundaries of the City of Chicago.").

Finding 2: CPD's processes for identifying members with Rule 14 histories and sharing this information as required lack rigor and controls, and therefore pose risk to the Department and to the legal and constitutional rights of criminal defendants and litigants.

CPD, both directly and as an entity acting on the government's behalf in a criminal case, risks failing to meet the Department's legal and constitutional obligations by not accurately identifying members with Rule 14 histories. The government has a constitutional obligation to inform a criminal defendant of any exculpatory evidence that could be subject to disclosure under *Brady* and *Giglio*, including Rule 14 histories, which may be relevant to the credibility of a Department member as a witness in a court proceeding. During discovery for civil litigation, CPD has an obligation to produce records via records requests issued to the Department by litigants.⁶² However, CPD only discloses disciplinary history, including any Rule 14 history, if and when explicitly requested by prosecutors in criminal cases or litigants in civil cases.

CPD is ill-equipped to meet its disclosure obligations because it does not accurately identify members with Rule 14 histories. The failure to identify these members and to timely disclose their histories poses risk to the Department and its ability to carry out its core law enforcement functions, in ways including but not limited to compromising criminal convictions and eroding public trust. Further, failure to comply with disclosure obligations leaves the City at significant risk for adverse civil litigation outcomes, including costly sanctions, settlements, and judgments.

A | CPD does not accurately maintain records pertaining to members' Rule 14 histories

CPD does not actively track, and cannot accurately identify, which of its members have been found in violation of Rule 14. In testimony given in April 2019 in front of the Police Board, BIA's then-Deputy Director estimated that CPD employed over one hundred members with Rule 14 histories. In May 2021, CPD provided OIG with a list of currently active members with Rule 14 histories.⁶³ OIG reviewed case files for these members and determined that CPD had not accurately identified the population of active members with Rule 14 histories. Specifically, while OIG did not review all disciplinary histories for all of CPD's more than 12,000 members, OIG has identified several

⁶² See OIG's report "Review of the Chicago Police Department's Management and Productions of Records" and its follow-up report for more information. City of Chicago Office of Inspector General, "Review of the Chicago Police Department's Management and Productions of Records," June 10, 2020, accessed February 6, 2023, <https://ic Chicago.org/wp-content/uploads/2020/06/OIG-Review-of-CPDs-Management-and-Production-of-Records.pdf>. City of Chicago Office of Inspector General, "Follow-Up Review of the Chicago Police Department's Management and Production of Records," September 16, 2021, accessed February 6, 2023, <https://ic Chicago.org/wp-content/uploads/2021/09/CPD-Records-Management-Follow-Up.pdf>.

⁶³ CPD generated this list from the Department's Complaint Record Management System (CRMS) system, a legacy database containing CPD members' disciplinary history.

members with Rule 14 histories who did not appear on the list provided by the Department. Two members were included on a publicly available list of Police Board rulings involving Rule 14 violations, but these members were not identified by CPD as having Rule 14 histories. A third member was identified through unrelated work done by OIG's Investigative Analysis Unit.

As discussed in Finding 1, in May 2018, the Police Board suspended two CPD members for three years for violating Rule 14. After serving their suspensions, both members returned to active duty in January 2020; nonetheless, CPD did not identify either member as having a Rule 14 history.⁶⁴ In another case, a CPD member was found to have violated Rule 14 in 2012, in an investigation arising from a domestic violence incident that occurred in 2008.⁶⁵ CPD similarly failed to identify this member as having a Rule 14 history. This member has testified at least once at a preliminary hearing in a criminal prosecution after having been found in violation of Rule 14; OIG was unable to determine whether the member's Rule 14 history was disclosed in that prosecution as would have been required.

Further, OIG reviewed investigative files provided by CPD which were unclear or inconclusive as to whether an investigating agency's finding that an accused member had violated Rule 14 was ultimately upheld. In one instance, two counts of Sustained Rule 14 violations for a member were crossed out by hand on disciplinary forms. In another example, the Rule 14 violation was challenged during the discipline review process and the allegation was not included in later documentation, nor was it clearly noted that the allegation had been dropped. However, in response to OIG's request, both members were still identified by CPD as having Rule 14 histories stemming from these investigations.

Finally, when OIG requested records for review related to investigations with final disciplinary outcomes of Rule 14 violations, CPD was unable to provide a subset of documents. Specifically, CPD advised that BIA could not locate five sets of investigative files.

For these reasons, OIG cannot determine the exact number of CPD members with Rule 14 histories—and critically, neither can CPD.

B | CPD only produces disciplinary histories when they are specifically requested, and does not keep records of what the Department produces in response to *Brady* and *Giglio* requests

In order to carry out criminal prosecutions resulting from CPD's law enforcement activities, the CCSAO and other prosecutorial bodies call CPD members as witnesses during court proceedings. In a July 2021 interview with OIG, CCSAO's Chief Ethics Officer noted that prosecutors rely on CPD members to self-disclose potentially compromising disciplinary history before testifying as a witness at trial. They stated that when a member divulges past violations, the prosecutor will request their disciplinary history to determine if they want to proceed with the CPD member as a witness. CPD will produce a member's disciplinary history only if requested by CCSAO or another prosecutorial body. Despite CPD currently or recently employing at least 110 members with histories of Rule 14 violations, CCSAO only identified 13 CPD members on their "list of police

⁶⁴ The CPD members were suspended, in part retroactively, from January 12, 2017 to January 11, 2020.

⁶⁵ This violation was originally sustained in 2012 with a recommended discipline of 45 days suspension. It was later grieved and upheld by the Police Board in 2015, with a reduced suspension of 30 days.

officers who have either lost or whose credibility is in question, for disclosure purposes, pursuant to the rules of discovery set forth in *Brady v Maryland*.⁶⁶ CPD's General Counsel confirmed the Department does not keep records of what it produces in response to CCSAO requests for members' disciplinary histories. CPD cannot, therefore, confirm or verify that the Department has met its obligations to inform CCSAO or any other requestor about a member's Rule 14 history.⁶⁷

The following case studies describe instances in which CPD members have testified in court after having been found in violation of Rule 14.

Case Study #8

In February 2000, a CPD member was found to have violated Rule 14 by lying about making derogatory remarks to a member of the public via a series of phone calls. This member later testified during the trial of a defendant charged with possession of a controlled substance with intent to deliver. The member with a Rule 14 history was the only witness called by the prosecution at trial, and the member's credibility was challenged during cross-examination, specifically regarding a vice case report on the incident signed by the member which was inconsistent with their testimony. In an effort to rehabilitate the member's credibility, the prosecution was permitted to use the member's "prior statements" (arrest reports and preliminary hearing testimony), which were consistent with the member's trial testimony. In March 2010, the Appellate Court of Illinois found that the prior statements used to rehabilitate the member's credibility were inadmissible. The Appellate Court reversed both the conviction and the defendant's seven-year sentence, and the case was remanded to the circuit court for a new trial.⁶⁸ It is unclear whether the CPD member's Rule 14 history was ever disclosed to the defendant, as required pursuant to *Brady* and *Giglio*.

Case Study #9

In April 2001, a CPD member was found to have violated Rule 14 by making false statements regarding their whereabouts when interacting with a complainant; the member reported that they were at a CPD District station when they were in fact elsewhere while off-duty. Then, in April 2004, the same member was again found in violation of Rule 14 for knowingly filing a false criminal report of forgery. Specifically, the member filed a report stating their signature had been forged on a car lease that had defaulted, when the Officer had, in fact, co-signed the original lease four years earlier.

Following their second Rule 14 violation, the member testified in court in criminal proceedings at least twice. In the first case, the member testified at trial to administering field sobriety tests to a defendant and to the member's conclusion that the defendant showed signs of impairment; the defendant was found guilty and sentenced to eight years in prison for driving under the influence. In the second, unrelated case, the member testified at trial to being involved in the investigation of a

⁶⁶ Sam Charles, "66 names on Cook County State's attorney's do-not-call list—mostly former cops," *WGN Investigates*, March 10, 2023, accessed March 13, 2023, <https://wgntv.com/news/wgn-investigates/66-names-on-cook-county-states-attorneys-do-not-call-list-mostly-former-cops/>.

⁶⁷ City of Chicago Office of Inspector General, "Review of the Chicago Police Department's Management and Productions of Records," June 10, 2020, accessed February 6, 2023, <https://igchicago.org/wp-content/uploads/2020/06/OIG-Review-of-CPDs-Management-and-Production-of-Records.pdf>. City of Chicago Office of Inspector General, "Follow-Up Review of the Chicago Police Department's Management and Production of Records," September 16, 2021, accessed February 6, 2023, <https://igchicago.org/wp-content/uploads/2021/09/CPD-Records-Management-Follow-Up.pdf>.

⁶⁸ After remand, the defendant pled guilty and received a six-year sentence.

defendant who was found guilty and sentenced to probation for aggravated unlawful use of a weapon. It is unclear whether the member's Rule 14 history was disclosed in either of these cases.

| Recommendations

5. CPD should maintain accurate records which permit the identification of all members with Rule 14 histories.
6. CPD should consistently and timely inform prosecutorial bodies when a Department member's Rule 14 violation is finalized and all available review and appeal pathways—including any grievance procedures and Police Board review—have been exhausted and/or waived.
7. CPD should document which records the Department produces pursuant to its disclosure obligations, so that it may confirm or verify that it has met these obligations.

| Management Response

A | CPD Management Response

5. *The Department agrees that it should maintain accurate records which identify those members with sustained Rule 14 violations. The Department continues to work through the consolidation of its former databases to ensure that this information is captured correctly in the systems to allow accurate reporting. The Department does not agree that "Rule 14 histories" should be tracked and reported. This report includes case studies where a Rule 14 recommendation was not sustained as part of settlement processes. This process of review of investigations by counsel and possible settlement at the advice of counsel, including allegations of Rule 14 violations, should remain. Final determinations that an officer has violated Rule 14 should be documented and reported.*
6. *The Department agrees that this reporting is required under Brady and Giglio; however, because the Department is not always informed as to what officers are being called to testify in which cases it is difficult to provide these records without a request from the prosecutor. The Department continues to work with the Cook County State's Attorney's Office to ensure it is meeting its constitutional requirement in as efficient a manner as possible. The Department hopes to implement an ongoing notification process in the coming months.*
7. *The Department agrees with this recommendation and is working on a mechanism to track records provided pursuant to its disclosure obligations.*

Finding 3: Gaps in current BIA and COPA policies and practices contribute to the underenforcement of Rule 14.

BIA and COPA have both recently developed policies instructing the agencies' respective investigators to conduct credibility assessments of CPD members, complainants, and witnesses and determine if inconsistencies exist among statements from each of these parties. Credibility assessments and inconsistencies among evidence may indicate Rule 14 violations and require investigation and analysis to determine whether Rule 14 has in fact been violated. These policies provide investigators with some guidance on how and when to conduct credibility assessments, but they can and should be modified and strengthened to ensure the thorough and rigorous enforcement of Rule 14.

A | BIA policies do not instruct investigators to consider all forms of evidence when evaluating inconsistencies

CPD's "Special Order S08-01-09: Requirements of a Complete Log Number Investigative File," effective December 31, 2022, describes the process for how BIA investigators are to document material inconsistencies in their investigations:

- Where material inconsistencies exist among the statements of the complainant, witness(es), or the accused member(s), the narrative in the investigative report will explicitly identify those inconsistencies and describe the relevant evidence, if any.
- When such inconsistencies exist, the narrative will also include credibility findings. An articulation of the basis of these credibility findings, that is, the reason that the investigator found a statement or an assertion within a statement to be credible or not to be credible, must be set forth.
- If the investigator determines that a Department member's statement is not credible or clearly false, the narrative must also:
 - include a determination of whether the false statement is material to the investigation, and if so, an explanation of how the false statement is material to the investigation;
 - contain a determination of whether the false statement was willful, as opposed to a lesser degree of culpability such as mistake or negligence and, if so, an articulation of the basis for this determination; and
 - include whether the Department member's false statement resulted in a Rule 14 violation.⁶⁹

"S08-01-09" provides good and clear guidance in delineating the steps investigators are to take when presented with inconsistent statements. The directive could be strengthened, however, to reduce the risk of underenforcement of Rule 14. Specifically, the directive currently requires investigators to evaluate inconsistencies among statements, but it does not speak to any

⁶⁹ Chicago Police Department, "Special Order S08-01-09: Requirements of a Complete Log Number Investigative File," December 31, 2022, accessed March 2, 2023, <http://directives.chicagopolice.org/#directive/public/6582>.

evaluations of statements that are inconsistent with other types of evidence, including, for example, BWC footage.

The following case study highlights the use of non-traditional statements (text message screenshots) as an important form of evidence in evaluating inconsistencies. It also illustrates CPD failing to recognize that false and contradicting statements constitute violations of Rule 14.

Case Study #10

In May 2020, BIA initiated an investigation involving a CPD member who was alleged to have associated with multiple individuals convicted of a felony or misdemeanor, failed to submit a written report explaining that they were under investigation after being interviewed by the FBI regarding their involvement in the Proud Boys organization, and associated with members of the Proud Boys.⁷⁰ The CPD member denied any involvement with the Proud Boys and BIA claimed they were unable to disprove the member's statement. In its initial Summary Report, BIA only sustained the allegation that the CPD member failed to notify the Department that they were investigated by the FBI; BIA recommended a 5-day suspension. After reviewing this closed disciplinary case, OIG's Investigative Analysis Unit recommended that "BIA reopen the investigation to fully account for all available evidence," including screenshots of text messages from a Proud Boys group chat. These text messages contradicted previous statements the member made in interviews with both the FBI and BIA regarding their involvement in activities with Proud Boys members. Based on inconsistencies between the CPD member's statements and the text message evidence, OIG recommended that BIA reopen the investigation to reconsider its original findings and to bring any additional allegations, potentially including a violation of Rule 14.

Upon reopening the investigation, BIA sustained allegations that the member made "a contradicting statement during [their] audio recorded statement" regarding their participation in a group chat with members of the Proud Boys and made "a false statement" during the course of BIA's investigation when asked if they attended a Proud Boy-sponsored barbeque. Critically, however, despite these "contradicting" and "false" statements, BIA did not find that the member had violated Rule 14. Instead, the Department determined that the member's conduct violated Rule 2, and entered into a mediation agreement pursuant to which the member was suspended for 120 days.⁷¹

⁷⁰ In its Summary Report, BIA described the Proud Boys as "an organization labeled by the Federal Bureau of Investigations as an anti-semitic [sic], white supremacy organization." Chicago Police Department Bureau of Internal Affairs, "Administrative Summary Report Log # 2020-0001998," March 9, 2023, accessed April 25, 2023, <https://complaints.blob.core.usgovcloudapi.net/reports/2020-0001998.pdf>; City of Chicago Office of Inspector General, "Third Quarter Report 2022," October, 14, 2022, 24-25, accessed May 18, 2023, <https://igchicago.org/wp-content/uploads/2022/10/OIG-Third-Quarter-2022-Report.pdf>

⁷¹ Rule 2 prohibits "[a]ny action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department." Chicago Police Department, "Rules and Regulations of the Chicago Police Department," April 16, 2015, accessed February 6, 2023, <http://directives.chicagopolice.org/#directive/public/6412>.

B | COPA policies do not explicitly instruct investigators to consider Rule 14 violations when making credibility determinations

COPA's policy, "Final Summary Report," effective July 30, 2021, provides guidance on analyzing a CPD member's credibility. This policy states, "The Analysis section will include an assessment of the credibility and reliability of statements. COPA will:

- make credibility determinations of statements made by complainants, involved Department members, and witnesses based on independent, unbiased, and credible evidence, taking into account any known record or final determination of deception or untruthfulness in legal proceedings, administrative investigations, or other investigations;
- critically evaluate all statements, like any other evidence, giving no automatic preference to, or discounting, any statement solely due to its source, including statements made by Department members (i.e., COPA will not disregard a statement solely because a witness has some connection to either the complainant or the Department member or because the witness or complainant has a criminal history);
- discuss the basis for a credibility determination with specificity (i.e., prior consistent/inconsistent statement, ability to perceive the events, bias, truthfulness, or consistency/inconsistency with other evidence and facts); and
- where material inconsistencies exist among complainant, Department member, and witness statements, will explicitly identify the inconsistencies, including a description of the facts and evidence reviewed."⁷²

Unlike BIA policy, COPA's policy does specify that credibility assessments should include evaluations of statements and all "credible evidence," including evidence beyond members' statements. However, it does not instruct COPA investigators to determine whether statements that are inconsistent with other evidence constitute potential violations of Rule 14. COPA can strengthen its current policy by including explicit instructions for investigators to consider Rule 14 violations when making credibility determinations.

C | BIA and COPA Summary Reports do not consistently reflect consideration and analysis of potential Rule 14 violations

OIG has reviewed some investigative files and Summary Reports from BIA and COPA which reflect consideration and analysis of whether statements by CPD members might constitute potential violations of Rule 14, including the rationale for decisions by the investigating agencies on whether or not to pursue allegations of violations of Rule 14. Many other Summary Reports, however—even in investigations where the truthfulness of CPD members' statements is in question—did not include any such analysis or explanation as to why Rule 14 allegations were not pursued.

Recognizing the enforcement of Rule 14 as critical to the core functions of policing and to maintaining public trust, the consent decree requires CPD and COPA to include a description of the evidence reviewed and provide written credibility findings if material inconsistencies exist within the

⁷² Civilian Office of Police Accountability, "Final Summary Report," July 30, 2021, accessed February 6, 2023, http://www.chicagocopa.org/wp-content/uploads/2021/08/COPA-Policy_Final-Summary-Report_FINAL_2021-07-30.pdf.

investigation.⁷³ In order to comply with this mandate, these agencies must routinely evaluate potential discrepancies in every investigation they conduct.

As previously mentioned, CPD recently updated their "Special Order S08-01-09: Requirements of a Complete Log Number Investigative File," to require a narrative analysis of Rule 14 applicability in cases where the investigator determines that a Department member is not credible.⁷⁴ While this directive is an important step, currently neither BIA's nor COPA's Summary Reports include a standardized field or section which would consistently capture the agency's consideration and analysis of potential Rule 14 violations; both agencies' reports would be improved by the addition of this component.

The following case studies highlight investigations where material inconsistencies were noted in the Summary Reports, but the agencies did not provide any analysis of Rule 14 considerations.

Case Study #11

In a BIA investigation initiated in September 2020, a civilian CPD Detention Aide falsely represented themselves as a law enforcement officer to a Lieutenant of the Hammond Police Department during a traffic stop. During interviews, the accused Detention Aide denied representing themselves as a law enforcement or CPD officer. Based on the information provided by the Hammond Police Department Lieutenant in the initial complaint, the accused member's interview, and BWC footage from the incident, BIA found that the accused member had in fact represented themselves as a law enforcement officer and that they represented themselves as a CPD Police Officer. Despite finding facts that the accused member had made clear and affirmatively false statements, BIA did not document any consideration or analysis of whether the accused member had violated Rule 14. As a result of OIG's Investigative Analysis Unit's case screening process, OIG recommended BIA reopen the investigation to determine if the Detention Aide violated Rule 14, noting, "[T]here is no evidence that BIA considered whether [the member] violated Rule 14, either when [the Detention Aide] falsely stated to the [Hammond Police Department] Lieutenant that [they were] a Chicago Police Officer, or during [their] interview with BIA, when [they] stated that [they] did not represent [themselves] as law enforcement, which directly contradicts the video evidence [the Detention Aide] was permitted to watch." In response to OIG's recommendation, BIA reopened the investigation and sustained Rule 14 violations for the Detention Aide's conduct during both the traffic stop and BIA's original administrative investigation. BIA altered its recommended discipline from the original ten-day suspension to separation.⁷⁵

Case Study #12

In a case closed in 2022, BIA investigated an allegation by an Assistant State's Attorney that a CPD member altered or forged the signature of a judge on a search warrant. After the accused member initially maintained that the document was the original warrant signed by the member and the judge, the investigation "established the fact that the accused...did, in fact, admit to folding over/compositing [the Assistant State's Attorney's] signature from a separate paper atop of the

⁷³ Consent Decree at ¶486(e)

⁷⁴ Chicago Police Department, "Special Order S08-01-09. Requirements of a Complete Log Number Investigative File "

⁷⁵ As of May 10, 2023, this case is pending CPD Legal Affairs Division review.

signature page of the Officer Affidavit."⁷⁶ Despite sustaining allegations that the Officer altered or forged this document, BIA did not allege a Rule 14 violation. Although this case was closed after a BIA directive was issued requiring investigators to address credibility concerns, there is no documented indication that BIA considered a potential violation of Rule 14. The accused member was permitted to enter into a mediation process, in which both parties agreed to a 25-day suspension.

Case Study #13

COPA brought nine allegations against a CPD member in June 2021 relating to an incident that occurred in March 2014. Among them was an allegation that the accused member falsified the details of a complainant's arrest, as documented in the arrest report, when the member stated that Officers attempted to remove the arrestee's hands from their pockets for officer safety, at which time the arrestee began resisting the Officers' efforts to do so by violently pulling away. During the accused member's first interview with COPA, they stated that they had repeatedly ordered the arrestee to remove their hands from their pockets and that the arrestee did not comply, resulting in the CPD members conducting an emergency takedown. COPA's analysis stated that "the video evidence clearly shows that [the arrestee's] hands were never in [their] pocket and [they] did not violently pull [their] arms away. [The accused] wrote the narrative of the arrest report less than two hours after the incident and should have been able to provide an accurate account of what happened. A reasonable officer's account of this incident should not have been in plain contrast to what the video evidence clearly shows transpired." Despite COPA's analysis, including its suggestion that the accused member's statement was in "plain contrast" to other evidence, COPA did not document any consideration or analysis of the applicability of Rule 14. OIG recommended that COPA reopen the investigation to conduct such an analysis. Although COPA declined to reopen the investigation, in their response to OIG they offered an analysis of the applicability of Rule 14 in which they determined they could not prove the willfulness component of this violation.⁷⁷

Although this investigation concluded prior to the enactment of COPA's July 2021 policy, the current policy does not include any provision to protect against similar deficiencies.

| Recommendations

8. CPD should revise its "Requirements of a Complete Log Number Investigative File" directive to further clarify that BIA investigators should consider all types of evidence when conducting credibility assessments and subsequent analyses of potential Rule 14 violations.
9. COPA should revise its "Final Summary Report" policy to instruct investigators to consider Rule 14 violations specifically when conducting credibility assessments.
10. BIA and COPA should update their Summary Reports to include a standardized mechanism, such as an affirmation or certification, where investigators indicate they have considered all evidence, including original statements and any subsequent

⁷⁶ The allegations included in BIA's Investigative Closing Report state that the accused Officer altered or forged the judge's signature. However, the narrative summary from the same BIA report states that the Officer forged an Assistant State's Attorney's signature.

⁷⁷ As of May 10, 2023, this case is pending the accused's appeal within the grievance process.

statements and amended or modified statements, to determine whether a CPD member violated Rule 14. As needed, Summary Reports should capture the investigating agency's thorough consideration and analysis of the applicability of Rule 14. To help ensure consistency, fairness, and thoroughness of investigations, and the rigorous and thorough enforcement of Rule 14, investigators should be required to make this affirmation or certification in each disciplinary matter which is investigated to a finding.

| Management Response

A | CPD Management Response

8. *The Department concurs with this recommendation and further states that such language is already included in S08-01-09 III.A.8., effective date December 31, 2022:*
 8. *A thorough narrative description and evaluation of the alleged misconduct based on the evidence gathered, including a determination of whether the Department member's actions appear to be within policy, procedure, regulations, order, or other standard of conduct of the Department required of CPD members.*
 - a. *Where material inconsistencies exist among the statements of the complainant, witness(es), or the accused member(s), the narrative in the investigative report will explicitly identify those inconsistencies and describe the relevant evidence, if any.*
 - b. *When such inconsistencies exist, the narrative will also include credibility findings. An articulation of the basis of these credibility findings, that is, the reason that the investigator found a statement or an assertion within a statement to be credible or not to be credible, must be set forth.*
 - c. *If the investigator determines that a Department member's statement is not credible or clearly false, the narrative must also:*
 - (1) *include a determination of whether the false statement is material to the investigation, and if so, an explanation of how the false statement is material to the investigation;*
 - (2) *contain a determination of whether the false statement was willful, as opposed to a lesser degree of culpability such as mistake or negligence and, if so, an articulation of the basis for this determination; and*
 - (3) *Include whether the Department member's false statement resulted in a Rule 14 violation.*
 - NOTE:** *All original statements and any subsequent statements, including amended or modified statements, must be considered by the investigator before determining a false statement was made willfully, and documentation of this consideration and evaluation will be included in the investigative file.*
10. *The Department appreciates the importance of identifying potential Rule 14 violations which may occur during the course of its investigations; however, does not agree with the certification mechanism recommended by the Inspector General. The Department instead agrees to conduct training for BIA investigators on*

recognizing Rule 14 violations and invites the Inspector General to participate in the creation of this training.

B | COPA Management Response

9. *COPA's policy on Fact Gathering and the Investigative Process already requires that investigators: "Consider all original statements and any subsequent statements, including amended or modified statements, for purposes of determining whether a Department member willfully made a false statement about a fact material to the incident under investigation." Furthermore, COPA's policy on Final Summary Reports already contains a comprehensive list of requirements related to credibility. Additional revision to that policy is unnecessary. We would note that the Independent Monitor and Office of the Attorney General approved both of these COPA policies and COPA is in full compliance with Paragraph 466 of the Consent Decree entered in Illinois v. Chicago, 17-cv-06260, which provides specific requirements around credibility assessments.*
10. *As set forth in COPA's policy on Final Summary Reports, COPA's Chief Administrator is the sole individual authorized to make findings, conclusions, or recommendations. Requiring individual investigators to make certifications or affirmations regarding any investigation is inconsistent with that authority. Furthermore, COPA already has standardized mechanisms for investigators to ensure that all potential misconduct violations are evaluated. First, COPA policy provides that investigative staff will conduct comprehensive investigations. Investigators are also directed to determine if there has been misconduct beyond what was initially alleged and to fully and fairly investigate such misconduct. Second, COPA recently revised its final summary report template to expressly require the drafter to make credibility determinations in every case. Finally, it is impractical to suggest that every COPA report should analyze or explain why a Rule 14 allegation was not pursued, even where an officer's credibility is questioned. First, every finding that an officer is not credible will not satisfy the high burden needed to establish a Rule 14 violation. Second, COPA strives to complete its investigations as timely as possible while maintaining high standards. COPA investigators necessarily consider a wide array of potential misconduct before serving allegations. This includes allegations of serious misconduct that could lead to separation beyond Rule 14 violations. A written explanation as to why certain allegations were excluded from an investigation would unnecessarily delay the closure of COPA's cases.*


V | Conclusion

CPD, COPA, and the Police Board each state a Department member's honesty is integral to their duties and that members with Rule 14 histories can create risk for CPD. By employing members with histories of Rule 14 violations, CPD risks undermining its core law enforcement function by potentially compromising otherwise successful criminal convictions, eroding public trust, and violating its constitutional and legal obligations. Given the importance of truthfulness and credibility in police work, CPD, COPA, and the Police Board should make changes to ensure Rule 14 violations are consistently considered, disciplined, and accurately recorded.

Appendix A | Department Responses

A | Chicago Police Department

4601



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Management Response Form

Inquiry Title and Number Enforcement of CPD's Rule Against False Reports, OIG File #:C2022-000029876

Department Name Chicago Police Department

Commissioner/Department Head Interim Superintendent Eric Carter

Date: May 5, 2023

OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
1. BIA and COPA should recommend separation of CPD members found to have violated Rule 14, consistent with the agencies' respective stated policy positions	It has been the position of BIA and CPD that a sustained Rule 14 violation should include a recommendation of separation to the Superintendent for final evaluation and decision on the matter. The Department agrees that this should remain the process going forward. The Department requests the Complaint Register numbers of the case studies referenced in the draft report so that BIA can conduct a review and determine if any institutional changes need to be made	Implemented	

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4601

OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
2 CPD should consistently separate members who have violated Rule 14, given the risks—including legal and reputational ones—associated with continuing to employ such members.	<p>The Department disagrees with this recommendation as it fails to take into consideration actions beyond the control of the Department. As stated in the draft report, members enjoy contractual rights under the respective Collective Bargaining Agreements which include a grievance mechanism for recommended discipline or a hearing before the Police Board. During these proceedings the Department sets forth its argument and evidence against the grievance but is subject to the final determination made by the independent third-party arbitrators or members of the Police Board.</p> <p>Further, the Department is represented during the grievance process and before the Police Board by counsel from the Department of Law or outside counsel. During this process the investigation and recommended findings are reviewed by counsel and may be the subject of settlement proceedings based on recommendations by counsel as well as legal sufficiency reviews.</p>	None	



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4801

OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
4. If members who have violated Rule 14 remain employed with the Department, CPD should ensure they are assigned or detailed to a position that does not require them to write reports or testify in court. CPD should also periodically review the assignments and details of its members with Rule 14 histories, as applicable, to ensure they are not in positions which require them to write reports or testify in court.	The Department believes that the assignment of those employed by CPD with sustained Rule 14 violations is within the discretion of the Superintendent. That said, the Department agrees to take this recommendation into consideration as these officers are assigned. The Department agrees with the recommendation of a periodic review of the assignments and details of its members with sustained Rule 14 violations. The Department will conduct this periodic review annually.	Summer 2024	
OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
5. CPD should maintain accurate records which permit the identification of all members with Rule 14 histories.	The Department agrees that it should maintain accurate records which identify those members with sustained Rule 14 violations. The Department continues to work through the consolidation of its former databases to ensure that this information is captured correctly in the systems to allow accurate reporting.	Ongoing	



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4601

OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
	The Department does not agree that "Rule 14 histories" should be tracked and reported. This report includes case studies where a Rule 14 recommendation was not sustained as part of settlement processes. This process of review of investigations by counsel and possible settlement at the advice of counsel, including allegations of Rule 14 violations, should remain. Final determinations that an officer has violated Rule 14 should be documented and reported.		
6 CPD should consistently and timely inform prosecutorial bodies when a Department member receives a Sustained Rule 14 violation.	The Department agrees that this reporting is required under Brady and Giglio; however, because the Department is not always informed as to what officers are being called to testify in which cases it is difficult to provide these records without a request from the prosecutor. The Department continues to work with the Cook County State's Attorney's Office to ensure it is meeting its constitutional requirement in as efficient a manner as possible. The Department hopes to implement an ongoing notification process in the coming months.	Summer 2024	



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4-01

OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
7 CPD should document which records the Department produces pursuant to its disclosure obligations, so that it may confirm or verify that it has met these obligations.	The Department agrees with this recommendation and is working on a mechanism to track records provided pursuant to its disclosure obligations	Spring 2024	

OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
8 CPD should revise its "Requirements of a Complete Log Number Investigative File" directive to further clarify that BIA investigators should consider all types of evidence when conducting credibility assessments and subsequent analyses of potential Rule 14 violations.	<p>The Department concurs with this recommendation and further states that such language is already included in S08-01-09 III.A.8., effective date December 31, 2022:</p> <p>8 A thorough narrative description and evaluation of the alleged misconduct based on the evidence gathered, including a determination of whether the Department member's actions appear to be within policy, procedure, regulations, order, or other standard of conduct of the Department required of CPD members.</p> <p>a. Where material inconsistencies exist among the statements of the complainant, witness(es), or the accused member(s), the narrative in the investigative</p>	Completed	



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OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
	<p>report will explicitly identify those inconsistencies and describe the relevant evidence, if any.</p> <p>b. When such inconsistencies exist, the narrative will also include credibility findings. An articulation of the basis of these credibility findings, that is, the reason that the investigator found a statement or an assertion within a statement to be credible or not to be credible, must be set forth.</p> <p>c. If the investigator determines that a Department member's statement is not credible or clearly false, the narrative must also:</p> <p>(1) include a determination of whether the false statement is material to the investigation, and if so, an explanation of how the false statement is material to the investigation;</p> <p>(2) contain a determination of whether the false statement was willful, as opposed to a lesser degree of culpability such as mistake or negligence and, if so, an articulation of the basis for this determination; and</p> <p>(3) Include whether the Department member's false statement resulted in a Rule 14 violation.</p> <p>NOTE: All original statements and any subsequent statements, including amended or modified statements, must be considered by the investigator before determining a false statement was made willfully, and documentation</p>		



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4621

OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
	of this consideration and evaluation will be included in the investigative file.		
10. BIA and COPA should update their Summary Reports to include a standardized mechanism, such as an affirmation or certification, where investigators indicate they have considered all evidence, including original statements and any subsequent statements and amended or modified statements, to determine whether a CPD member violated Rule 14. As needed,	The Department appreciates the importance of identifying potential Rule 14 violations which may occur during the course of its investigations; however, does not agree with the certification mechanism recommended by the Inspector General. The Department instead agrees to conduct training for BIA investigators on recognizing Rule 14 violations and invites the Inspector General to participate in the creation of this training.	Summer 2024	



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OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
Summary Reports should capture the investigating agency's thorough consideration and analysis of the applicability of Rule 14. To help ensure consistency, fairness, and thoroughness of investigations, and the rigorous and thorough enforcement of Rule 14, investigators should be required to make this affirmation or certification in each disciplinary matter which is investigated to a finding		12	

B | Civilian Office of Police Accountability



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4502

Management Response Form

Inquiry Title and Number: Enforcement of CPD's Rule Against False Reports, OIG File #: C2022-000029676

Department Name: Civilian Office of Police Accountability

Commissioner/Department Head: Chief Administrator Andrea Kersten

Date: March 24, 2023

OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
1 BIA and COPA should recommend separation of CPD members found to have violated Rule 14, consistent with the agencies' respective stated policy positions.	Please see enclosed letter.		
9 COPA should revise its "Final Summary Report" policy to instruct investigators to consider Rule 14 violations specifically when conducting credibility assessments.	Please see enclosed letter.		



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OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
10. BIA and COPA should update their Summary Reports to include a standardized mechanism, such as an affirmation or certification, where investigators indicate they have considered all evidence, including original statements and any subsequent statements and amended or modified statements to determine whether a CPD member violated Rule 14. As needed, Summary Reports should capture the investigating agency's thorough consideration and analysis of the applicability of Rule 14. To help ensure consistency, fairness, and thoroughness of investigations, and the rigorous and thorough enforcement of Rule 14, investigators should be required to make this affirmation or certification in each disciplinary	Please see enclosed letter.		



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OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframes	Party Responsible
matter which is investigated to a finding.			



May 5, 2023

Tobara Richardson
Deputy Inspector General
for Public Safety
Office of Inspector General
740 North Sedgwick Street, Suite 200
Chicago, Illinois 60654

Via Electronic Mail

Re: Draft Report on the Enforcement of the Chicago Police Department's Rule Against False Reports

Dear Deputy Inspector Richardson:

Thank you for providing a draft of the Office of the Inspector General's report, "Enforcement of the Chicago Police Department's Rule Against False Reports." Through this letter, COPA responds to OIG's recommendations to COPA and seeks to supplement and/or clarify some of the information in the report.

A. COPA's comments on the draft report.

COPA believes the following information should be included in OIG's report to more accurately reflect the facts and circumstances surrounding certain cases and statements identified in the report.

1. Statement regarding materiality.

The report cites a statement made in a single summary report that seems to suggest that most statements a CPD member makes to COPA satisfy the materiality requirement.¹ COPA notes that the statement is essentially dictum as it was not necessary to resolve the point at issue. The sentence that immediately follows clarifies that the statement at issue (the officer's claim to have not witnessed certain misconduct) was material to COPA's allegation that the officer failed to intervene or report such misconduct. COPA requests that OIG include this additional context surrounding the statement in its report.

For the avoidance of doubt, and consistent with applicable law, COPA considers a statement "material" for Rule 14 purposes when the statement has "a natural tendency to influence, or [is] capable of influencing, the decision-making body to which it was addressed."²

¹ Draft Report at pp. 10-11. COPA agrees that an investigating agency must find that a member's statement is false and that it was made regarding a material issue to sustain a Rule 14 violation.

² See *U.S. v. Akram*, 152 F.3d 698, 700 (1998) (citing cases); *Taylor v. Police Bd.*, 2011 Ill. App. *P35 (1st) 101156 (1st Dist. 2011) ("The test of materiality for an allegedly perjured statement is whether the statement tends to prove or disprove an issue in the case.")

2. Case Studies #1 and 2.

COPA acknowledges its recommendations in those two cases did not seek separation but believes those cases to be inconsistent with COPA's general practice. COPA has recommended separation in the vast majority of cases involving sustained Rule 14 violations.

Furthermore, COPA notes that the officers in Case Studies #1 and 2 were ultimately served with charges seeking separation. COPA agrees with the decision to seek separation of those officers. These cases demonstrate that the review process laid out in COPA's ordinance works to ensure disciplinary recommendations are appropriate.

3. Case Study #13.

COPA requests that OIG include the following additional context surrounding Case Study #13, which COPA included in its response to the OIG's recommendation to reopen that log.

In sustaining an allegation that the officer falsified the details of an arrest in the arrest report, COPA analyzed CPD Rules 2, 3, and 10. COPA also considered whether it could establish the elements of a Rule 14 violation when bringing allegations against the officer. COPA determined that, among other impediments, it could not establish that the officer's inaccurate reporting was willful. The officer consistently stated that he did not intentionally fabricate any information and completed the arrest report based on his memory. While COPA did find the officer's falsification unreasonable, COPA had no evidence that the behavior was intentional.³

B. COPA's responses to OIG's recommendations.

Your report makes the following recommendations: (1) "COPA should recommend separation of CPD members found to have violated Rule 14, consistent with [COPA's] stated policy position[.]" (2) "COPA should revise its 'Final Summary Report' policy to instruct investigators to consider Rule 14 violations, specifically when conducting credibility assessments", and (3) "COPA should update [its] Summary Reports to include a standardized mechanism, such as an affirmation or certification, where investigators indicate they have considered all evidence, including original statements and any subsequent statements and amended or modified statements, to determine whether a CPD member who is the subject of a disciplinary investigation has violated Rule 14. As needed, Summary Reports should capture the investigating agency's thorough consideration and analysis of the applicability of Rule 14. To help ensure consistency, fairness, and thoroughness of investigations, and the rigorous and thorough enforcement of Rule 14, investigators should be required to make this affirmation or certification in each disciplinary matter which is investigated to a finding." COPA addresses each recommendation below.

1. Recommendation: COPA should recommend separation of CPD officers found to have violated Rule 14

COPA generally agrees with the proposition that CPD members found to have violated Rule 14 cannot effectively serve as police officers. Nevertheless, COPA is bound by collective bargaining agreements that provide that an officer may not be disciplined without just cause.⁴ COPA therefore must necessarily

³ Furthermore, OIG did not identify any such evidence in its letter.

⁴ See, e.g., Agreement Between the City of Chicago and the Fraternal Order of Police Lodge No. 7, effective July 1, 2012 through June 30, 2017, § 8.1

consider whether there is sufficient cause to discharge an officer in each case and cannot predetermine discipline without considering all facts and circumstances.

COPA agrees with the Chicago Police Board's recommendation that OIG ask the City Council to amend the Municipal Code of Chicago to require that any officer found guilty of violating Rule 14 be discharged from CPD.⁵

2. Recommendation: COPA should revise its Final Summary Report policy to instruct investigators to consider Rule 14 violations, especially when conducting credibility assessments.

COPA's policy on Fact Gathering and the Investigative Process already requires that investigators: "Consider all original statements and any subsequent statements, including amended or modified statements, for purposes of determining whether a Department member willfully made a false statement about a fact material to the incident under investigation."⁶ Furthermore, COPA's policy on Final Summary Reports already contains a comprehensive list of requirements related to credibility.⁷ Additional revision to that policy is unnecessary.

We would note that the Independent Monitor and Office of the Attorney General approved both of these COPA policies and COPA is in full compliance with Paragraph 466 of the Consent Decree entered in *Illinois v. Chicago*, 17-cv-06260, which provides specific requirements around credibility assessments.

3. Recommendation: Include standardized mechanism for investigators to certify or affirm that they have considered all evidence to determine whether a CPD member who is the subject of a disciplinary investigation has violated Rule 14.

As set forth in COPA's policy on Final Summary Reports, COPA's Chief Administrator is the sole individual authorized to make findings, conclusions, or recommendations. Requiring individual investigators to make certifications or affirmations regarding any investigation is inconsistent with that authority.

Furthermore, COPA already has standardized mechanisms for investigators to ensure that all potential misconduct violations are evaluated. First, COPA policy provides that investigative staff will conduct comprehensive investigations.⁸ Investigators are also directed to determine if there has been misconduct beyond what was initially alleged and to fully and fairly investigate such misconduct.⁹ Second, COPA recently revised its final summary report template to expressly require the drafter to make credibility determinations in every case.

Finally, it is impractical to suggest that every COPA report should analyze or explain why a Rule 14 allegation was not pursued, even where an officer's credibility is questioned. First, every finding that an officer is not credible will not satisfy the high burden needed to establish a Rule 14 violation. Second, COPA strives to complete its investigations as timely as possible while maintaining high standards. COPA

⁵ See Letter from Police Board to OIG dated April 14, 2023.

⁶ See COPA Policy – Fact Gathering & Investigative Process, § III A 11 (eff. Nov. 1, 2021), available at https://www.chicagocopa.org/wp-content/uploads/2021/11/COPA-Policy_Fact-Gathering_FINAL_2021-11-01.pdf

⁷ COPA Policy – Fact Gathering & Investigative Process, § III A 9

⁸ COPA Policy – Final Summary Reports, § I B 7 f (eff. July 30, 2021), available at http://www.chicagocopa.org/wp-content/uploads/2021/08/COPA-Policy_Final-Summary-Report_FINAL_2021-07-30.pdf

⁹ See COPA Policy – Fact Gathering & Investigative Process, § I B 1

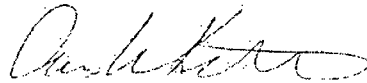
⁹ COPA Policy – Fact Gathering & Investigative Process, § III A 9

investigators necessarily consider a wide array of potential misconduct before serving allegations. This includes allegations of serious misconduct that could lead to separation beyond Rule 14 violations. A written explanation as to why certain allegations were excluded from an investigation would unnecessarily delay the closure of COPA's cases.

C. Conclusion.

As always, COPA appreciates OIG's continued diligent and careful review of COPA's investigations. I hope the information provided in this letter can be included in OIG's final report to provide additional context surrounding COPA's investigations of Rule 14 violations.

Respectfully,



Andrea Kersten
Chief Administrator
Civilian Office of Police Accountability

C | Chicago Police Board



Dorinda Whitburg
Inspector General

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4603

Management Response Form

Inquiry Title and Number: Enforcement of CPD's Rule Against False Reports, OIG File # C2022-000029876

Department Name: Chicago Police Board

Commissioner/Department Head: President Ghian Foreman

Date: April 14, 2023

OIG Recommendation	Department's Response and Proposed Corrective Action	Implementation Timeframe	Party Responsible
3 The Police Board should uphold recommended separations for members who have violated Rule 14, consistent with the Board's language in its decisions about the impact of Rule 14 violations	Please see enclosed letter.		



CITY OF CHICAGO

CHICAGO POLICE BOARD

VIA E-MAIL

April 14, 2023

Tobara Richardson
Deputy Inspector General for Public Safety
Office of Inspector General
City of Chicago
trichardson@igchicago.org

Deputy Inspector General Richardson:

Thank you for forwarding a draft of the Office of Inspector General's report "Enforcement of the Chicago Police Department's Rule Against False Reports." We are writing on behalf of the Police Board in response to the OIG report's analysis of the Police Board's decisions and OIG's recommendation.

OIG Analysis of Police Board Decisions

We want to share some information with you which we believe should be included in your report to more accurately reflect recent action by the Board pertaining to the statement in the report that the Police Board does not "consistently... implement separation"¹

- It has been *nearly five years* since the Board ordered a penalty less than discharge after finding an officer guilty of violating Rule 14.² In those five years, the Board has decided cases involving 23 officers relevant to this report.
- The OIG report (1) does not include the Board's most recent decisions (the time period covered by the report ends with May 2021, nearly two years ago), and (2) does not include aggregate data, both of which provide the public with a full picture of the Police Board's handling of Rule 14 violations

A review of *all Board decisions* over the past five years (2018 – present) shows that the Board found 23 officers guilty of violating Rule 14. Of these 23 officers, the Board ordered 21 discharged from the Chicago Police Department. See the table below for the list of decisions, all of which are available on the Board's website

¹Page 18 of the OIG report

²Police Board Case Nos. 16 PB 2923 & 2924, decided May 2018

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Discipline ordered by the Police Board
after finding an officer guilty of violating Rule 14
January 2018 – March 2023

Decided in:	Case Numbers	Discipline
May 2018	16 PB 2923-2924	3-year suspension 3-year suspension
May 2018	17 PB 2933-1 & 2	Discharge from CPD Discharge from CPD
Sep 2018	17 PB 2931	Discharge from CPD
Dec 2018	17 PB 2942	Discharge from CPD
Mar 2019	17 PB 2944	Discharge from CPD
Apr 2019	18 PB 2946	Discharge from CPD
Jul 2019	16 PB 2909-2912	Discharge from CPD Discharge from CPD Discharge from CPD Discharge from CPD
Aug 2019	19 PB 2952-1 & 2	Discharge from CPD Discharge from CPD
May 2020	19 PB 2963	Discharge from CPD
Dec 2020	19 PB 2953	Discharge from CPD
Dec 2020	19 PB 2968	Discharge from CPD
Jun 2021	19 PB 2966	Discharge from CPD
Feb 2022	21 PB 2989	Discharge from CPD
May 2022	21 PB 2983	Discharge from CPD
Jun 2022	21 PB 2993	Discharge from CPD
Aug 2022	21 PB 2999	Discharge from CPD
Dec 2022	20 PB 2982	Discharge from CPD

Source: Decisions posted on the Police Board website.

- The one case study included in the OIG's analysis of the Police Board³, which the report describes as a "recent instance" but in fact is a Police Board decision from nearly five years ago, is an outlier, as the data presented above demonstrate. In addition, we believe it would be useful to include in your report an accurate record of the basis for the decision in that case:
 - The report's description of the Board's decision to order suspensions is incomplete and, therefore, misleading. At no place in the decision does the Board "note[]" that the primary mitigating factor" that led to suspensions was a mitigation

³On page 21 of the OIG report

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witness's testimony. Rather, the Board lists *several factors* that led it to impose a penalty less than discharge:

In these cases, each Respondent's record and years of service to the Department, including each Respondent's work as an officer since the August 10, 2004, [incident], the lack of any other sustained complaints, the fact that the incident underlying these charges occurred early in their careers, and the unusually compelling character witness testimony presented on Respondents' behalf leads the Board to find that this is an appropriate case in which to temper justice with mercy. Accordingly, the Board finds that a suspension of each Respondent until January 11, 2020 [three years], is a justified and sufficiently stringent penalty on the facts of these particular cases.⁴

- A notable omission from the OIG report's summary of this case is that the incident took place *more than twelve years* before charges were filed and, as noted above, this delay was a factor in not discharging these officers.

OIG Recommendation

The OIG report includes the following recommendation: "The Police Board should uphold recommended separations for members who have violated Rule 14, consistent with the Board's language in its decisions about the impact of Rule 14 violations."

As the Board has stated consistently in its decisions, several of which are quoted in the report, an officer's violation of Rule 14 is very serious misconduct that warrants severe disciplinary action. It is also important to recognize, however, that the Board is not in a position to commit to imposing a specific level of discipline in future cases that are not yet before the Board. The Board has a duty under the Municipal Code and its Rules of Procedure to base its decisions on the evidence and legal authority made part of the record at the hearing on the charges. The Board is required to take into account the specific facts and circumstances of each case when making a decision on discipline. As the Board has stated:

Decisions about the proper disposition when there is a finding of a Rule 14 violation are among the most important decisions this Board faces. As with all cases, this Board decides cases involving Rule 14 allegations on a case by case basis and applies the relevant law with of course recognition of past Board precedent. Each case presents nuanced circumstances and must be equally evaluated in large measure on the facts developed in the record.

The Board is of course mindful of the Department's position on Rule 14 cases where that position is developed in the record, but the Board recognizes and embraces its

⁴ Police Board Case Nos. 16 PB 2923 & 2924, p. 31

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Tobara Richardson
Page 4

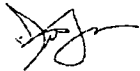
responsibility to independently consider and evaluate the facts, particularly where termination of an officer's employment is a possible disposition.⁵

The OIG may wish to recommend that the City Council amend the Municipal Code of Chicago to require that any officer found guilty of violating Rule 14 be discharged from the CPD. Such a requirement exists for violating Rule 25 ("Failure to actually reside within the corporate boundaries of the City of Chicago.")⁶


+ + +

In conclusion, we value the role of the OIG in the police accountability system, and we hope that the information we have provided here will be included in a revised report so that the public will have an accurate and timely record of the Board's decisions concerning Rule 14. Thank you for your continued vigilance and for the opportunity to review and respond to your findings and recommendation

Sincerely,



Ghian Foreman
President



Paula Wolff
Vice President



Max Caproni
Executive Director

⁵ Police Board Case Nos. 16 PB 2903, p. 7.

⁶ Section 2-152-050 of the Municipal Code of Chicago states: "All officers and employees of the city shall be actual residents of the city. Any officer or employee of the city who shall fail to comply with the provisions of this section shall be discharged from the service of the city in the manner provided by law."



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