



# **OFFICE OF THE INSPECTOR GENERAL**

MEMORANDUM:

## ***OPD SEXUAL MISCONDUCT POLICY RECOMMENDATION***



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA

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**Thursday, January 18, 2024**

**Dear Members of the Public,**

In 2020, Measure S1 established the Office of the Inspector General (OIG), as an independent civilian monitor and auditor of the Oakland Police Department (OPD) and Community Police Review Agency. Oakland City Charter Section 604(f)5 states, in part, the following:

*[The] OIG may review legal claims, lawsuits, settlements, complaints, and investigations, by, against, or involving the Department and the Agency, to ensure that all allegations of police officer misconduct are thoroughly investigated, and to identify any systemic issues regarding Department and Agency practices and policies.*

In its review of OPD policy areas that may cause systemic issues, the OIG identified a gap in the department's guidelines for sexual misconduct. Sexual misconduct and exploitation have a dark history in the City of Oakland, and particularly within the ranks of OPD. It is imperative that sexual misconduct be prevented and prohibited in OPD, via clear expectations and accountability measures. To help ensure this is the case, the OIG recommends OPD create a dedicated Departmental General Order (DGO) on sexual misconduct. The following memorandum outlines the background, benefits, and justification for the implementation of a comprehensive policy.

## **Background**

Throughout the years, allegations of sexual misconduct have plagued OPD, resulting in significant harm to survivors, their families, and the community. Coupled with the loss of community trust, Oakland has paid millions of tax dollars in case settlements. For example, in June 2017, the City of Oakland paid a \$989,000 settlement to a community member, who was sexually exploited as a minor by more than a dozen OPD officers.<sup>1</sup>

In 2018, California Senate Bill No. 1421 (SB 1421) amended Cal. Penal Code Section 832.7, which formerly exempted police personnel records from disclosure under the California Public Records Act. SB 1421 now requires the release of specific police misconduct records relating to statutorily defined categories including "sexual assault." To further transparency in police

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<sup>1</sup> City of Oakland Resolution: Claim of Jasmine Abuslin. Passed on May 30th, 2017.  
<https://oakland.legistar.com/View.ashx?M=F&ID=5187877&GUID=658953F7-CF09-4B0F-BB5F-083182BB8DF7&G=undefined>



accountability, SB 1421 established a broad definition of sexual assault:

“As used in this subparagraph, ‘sexual assault’ means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.”<sup>2</sup>

Within this memorandum, the OIG will refer to this category of misconduct as “sexual misconduct.” In terms of OPD and City of Oakland documents that cover portions of sexual discrimination or harassment, the OIG has confirmed the following DGO, Informational Bulletin, and Administrative Instructions:

- DGO D-20: *Equal Employment Opportunity, Anti-discrimination, and Nonagreement Policy*
- Information Bulletin: *Harassment and Discrimination Reminder*<sup>3</sup>
- Administrative Instruction 71: *Equal Employment Opportunity/Anti-Discrimination/Non-Harassment Policy and Complaint Procedure*
- Administrative Instruction 73: *Gender Inclusion Policy*

As of date, there appears to be only one explicit identification of sexual misconduct in OPD’s current Manual of Rules (MORs). In Rule 328.07 – *Prohibited Activity on Duty*, OPD designates sexual activity as a Class I violation.<sup>4</sup> However, sexual misconduct is much broader than this policy’s vague articulation, which is only implied within other rules.

Explicit sexual misconduct policies within police departments are not unprecedented and would be a path forward for OPD. On June 21, 2023, the Chicago Police Department issued General Order G08-06 *Prohibitions of Sexual Misconduct*,<sup>5</sup> which could serve as a reference point for OPD’s sexual misconduct policy.

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<sup>2</sup> California Penal Code Section 832.7, (b)(1)(B)(ii) (emphasis added)

<sup>3</sup> This Information Bulletin became effective October 26, 2011

<sup>4</sup> OPD Training Bulletin TB V T, Discipline Policy defines Class I violations as, “the most serious allegations of misconduct” that can result in discipline up to termination and might serve as the basis for criminal prosecution.

<sup>5</sup> Chicago Police Department. (2023). G08-06 Prohibitions of Sexual Misconduct.

<https://directives.chicagopolice.org/#directive/public/6907>

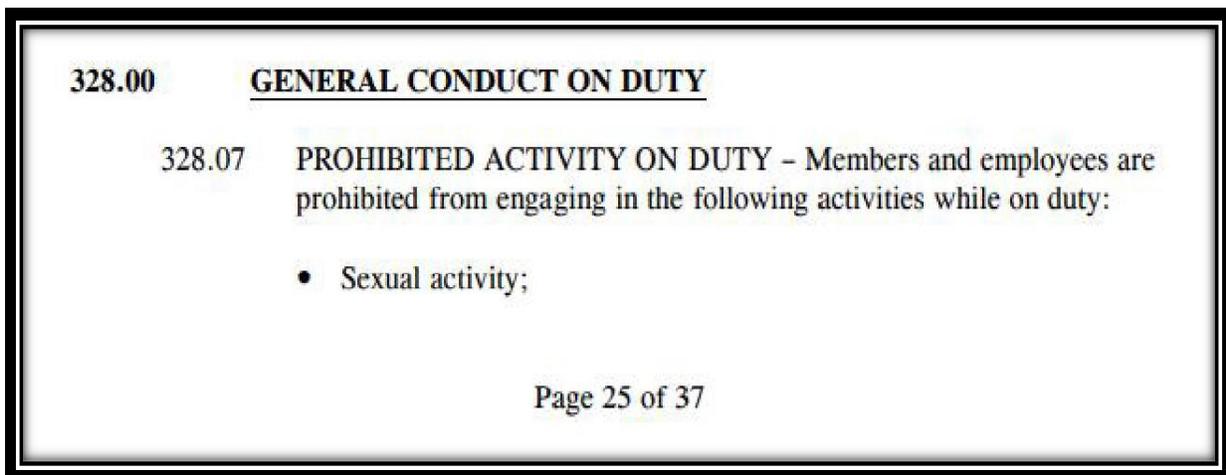


## **Benefits of a Sexual Misconduct Policy**

### Clarity for OPD Officers & Community Members

A dedicated DGO would provide officers and community members with a clear understanding on what constitutes sexual misconduct, and its potential consequences. This shared knowledge would allow all stakeholders to have a specific marker of accountability and strengthen community trust. Currently, MOR Section 328.07 – *Prohibited Activity on Duty*, appears to be the only affirmative language that prohibits sexual activity on duty.

*Figure 1: Oakland Police Department Manual of Rules Section 328.07 Prohibited Activity on Duty (sexual activity only)*



However, sexual activity is not defined in this policy. Since there is no clear definition, “sexual activity” can cover a spectrum of actions; from looking at pornographic material on a private cell phone, to having consensual sex with a community member while on duty. Although there are other departmental policies that encompass sexual misconduct, they do so implicitly. Such policies should be revisited, and in this case established, to limit the opportunity for subjective judgment and bias in subsequent disciplinary actions.

### Uphold a Commitment to Accountability and Prevention

The purpose of establishing a specific DGO is to memorialize OPD’s expectations of its members’ behavior as it relates to sexual misconduct. A dedicated sexual misconduct policy takes the



guesswork out of what is expected of officers, on and off duty, while establishing transparency amongst all stakeholders. Clear guideline would also improve the identification, data collection, and assessment of allegations of sexual misconduct.

### Other Implications

Any policy creations, revisions, or updates could impact OPD's training curriculum and disciplinary metrics. Prior to implementation, a thorough review of how a sexual misconduct DGO could impact OPD's disciplinary process should be conducted.

### **Conclusion and Recommendation**

#### Conclusion

Currently, OPD does not have a dedicated DGO that clearly defines and outlines the parameters of sexual misconduct. A comprehensive sexual misconduct DGO would not only establish a standardized accountability tool, but also make clear that any improper activity (viewing pornographic material, having sex while on duty, etc.) is a serious offense. While OIG's policy recommendation to create a sexual misconduct DGO is intended to promote clarity, transparency, and accountability within OPD, it is not a legal determination nor recommendation. The OIG suggests stakeholders consult with the appropriate legal counsel should this recommendation be accepted and implemented.

#### Recommendation

The OIG recommends OPD establish a dedicated Departmental General Order (DGO) on sexual misconduct.

Sincerely,

**Michelle N. Phillips, Inspector General**  
City of Oakland, Office of the Inspector General



**CC:**

Honorable Mayor Sheng Thao  
Honorable City Councilmembers  
Honorable City Attorney Barbara J. Parker  
Honorable Police Commissioners  
City Administrator Jestin D. Johnson

**Attachments:**

1. Oakland Police Commission's Response to the Office of the Inspector General's Sexual Misconduct Memorandum
2. Chicago Police Department General Order G08-06: Prohibitions of Sexual Misconduct

## **ATTACHMENT 1**

**Oakland Police Commission's Response to the Office of  
the Inspector General's Sexual Misconduct Memorandum**



POLICE COMMISSION

250 FRANK H. OGAWA PLAZA, SUITE 6302 • OAKLAND, CALIFORNIA 94612

January 16, 2024

Ms. Michelle Phillips  
Office of the Inspector General  
250 Frank Ogawa Plaza, Ste. 6306  
Oakland, California 94612

Re: Recommendation to the Police Commission on the Creation of a Dedicated Oakland Police Departmental General Order on Sexual Misconduct

Dear IG Phillips,

The Oakland Police Commission (“Commission”) thanks the Inspector General (“IG”) for the comprehensive report recommending that the Commission exercise its oversight and policy powers to establish a dedicated Departmental General Order (DGO) on sexual misconduct. This is to ensure the prevention and prohibition of sexual misconduct within the Oakland Police Department (OPD).

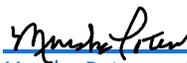
Within the report, the OIG has confirmed the following DGO, Informational Bulletin, and Administrative Instructions and attachments:

- DGO D-20: Equal Employment Opportunity, Anti-discrimination, and Non Agreement
- Policy Information Bulletin: Harassment and Discrimination Reminders
- Administrative Instruction 71: Equal Employment Opportunity/Anti-Discrimination Non- Harassment Policy and Complaint Procedure
- Administrative Instruction 73: Gender Inclusion Policy

The Commission acknowledges the notification made that currently, there is only one explicit mention of sexual misconduct in the OPD's Manual of Rules (MORs). In Rule 328.07 - Prohibited Activity on Duty, the OPD categorizes sexual activity as a Class I violation. We further acknowledge and agree that sexual misconduct encompasses a wider scope than what is vaguely expressed in this rule and is indirectly addressed in other regulations, and that your recommendation would be a path forward for OPD.

Please be advised that the Commission plans to agendaize this matter for its next regular meeting, on January 25, 2024.

Sincerely,

  
[Marsha Peterson \(Jan 17, 2024 12:03 PST\)](#)  
Marsha Peterson  
Chair, Oakland Police Commission

## **ATTACHMENT 2**

Chicago Police Department General Order G08-06:  
Prohibitions of Sexual Misconduct



# PROHIBITIONS OF SEXUAL MISCONDUCT



<b>ISSUE DATE:</b>	21 June 2023	<b>EFFECTIVE DATE:</b>	21 June 2023
<b>RESCINDS:</b>			
<b>INDEX CATEGORY:</b>	08 - Professionalism		
<b>CALEA:</b>	Law Enforcement Standards Chapter 26		

## I. PURPOSE

This directive:

- A. defines, identifies, and prohibits sexual misconduct by all Chicago Police Department members of any rank (sworn, civilian) on and off duty. This policy applies to volunteers and employees, whether paid or unpaid, of the Department, as well as applicants for employment with the Department.
- B. informs Department members that while on duty, all sex acts are prohibited.
- C. informs Department members that no sexual activity while a Department member is on duty is considered consensual.
- D. delineates that consent will not be an affirmative defense for violations of this policy.
- E. defines criminal and non-criminal acts of sexual misconduct.
- F. outlines the Department's response, prevention, and accountability efforts regarding sexual misconduct.
- G. provides guidance to Department members on the importance of working with victim advocacy groups when acts of sexual misconduct are reported.

## II. POLICY

- A. The public demands that the integrity of the Chicago Police Department and all its members be above reproach. The conduct of a single Department member may threaten the integrity, community trust, legitimacy, and professionalism of the entire Department. The Department is committed to promoting an environment free of all forms of harassment.
- B. The Department has a **zero tolerance** for sexual misconduct, and it is strictly prohibited. The Department will make every effort to prevent such conduct and hold Department members accountable for any violations of this policy.
- C. Reports of sexual misconduct by a Department member will be thoroughly, promptly, fairly, and efficiently investigated by the Civilian Office of Police Accountability (COPA), in a manner free of gender-based bias, in accordance with Department directives, any applicable collective bargaining agreements, and all city, state, and federal laws.
  - 1. However, when a report of sexual misconduct is criminal in nature, COPA will confer with the Department's Bureau of Internal Affairs (BIA) about the details of a criminal sexual misconduct investigation involving a Department member.
  - 2. Consistent with COPA's jurisdiction outlined above, after conferring about the details of a particular criminal sexual misconduct investigation involving a Department member, COPA and BIA may jointly determine that BIA may conduct the administrative investigation into a report of sexual misconduct when doing so avoids unnecessary disruption to the victim. The criminal investigation of sexual misconduct will be referred to the appropriate prosecuting agency when charges are warranted.

- D. Any allegations of misconduct or violations of this policy, including failing to report misconduct, interfering with or undermining an ongoing Log Number investigation, and refusing to cooperate or answer questions during the investigation, will be reported and investigated consistent with the Department directive titled "[Complaint and Disciplinary System](#)." Department members are reminded that discipline, up to and including separation from the Department, may be administered for any misconduct or violation of policy.
- E. A Department member who directly observes or has knowledge of another Department member's violation of this directive will, except in extraordinary circumstances, act to intervene and stop the policy violation. Such action may include, but is not limited to, verbally or physically intervening to try to stop the violation. A supervisor who observes a violation will issue a direct order to stop the violation.
- F. All Department members are required to report suspected violations of this policy consistent with the Department directive titled "[Complaint Initiation and Log Number Investigation Assignment](#)." Failure to report to the Department any violation of the Rules and Regulations of the Chicago Police Department or any other improper conduct that is contrary to the policy, orders, or directives of the Department is a violation of Rules 21 and 22 of the [Rules and Regulations of the Chicago Police Department](#).
  - 1. Rule 21: Failure to report promptly to the Department any information concerning any crime or other unlawful action.
  - 2. Rule 22: Failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department.
- G. Consistent with the Department directive titled "[Prohibition of Retaliation](#)," the Department strictly prohibits all forms of retaliation, intimidation, coercion, or adverse action against any person, including a Department member or member of the public, who reports misconduct or cooperates with a Log Number investigation.
- H. Consent will not be an affirmative defense for a violation of this policy.
- I. This policy applies to volunteers and employees, whether paid or unpaid, of the Department, as well as applicants for employment with the Department.
- J. The Illinois State Archives requires the Department to collect and retain data and records by Department members consistent with the Department directive titled "[Records Management](#)."
- K. Department members will immediately submit a To-From-Subject Report to their exempt unit commanding officer whenever they are under investigation by any outside law enforcement agency or governmental or lawful investigatory entity, or have knowledge that another member is under investigation by any law enforcement agency or governmental or lawful investigatory entity, regardless if the member has been contacted by that agency/entity as outlined in the Department directive titled "[Special Situations Involving Allegations of Misconduct](#)."

**NOTE:** The exempt unit commanding officer will immediately forward the original copy of the To-From-Subject Report to the Chief, Bureau of Internal Affairs (BIA). A copy will also be retained in unit files.

### III. GENERAL INFORMATION

- A. [Title 18 of the United States Code, Section 242](#) (Deprivation of Rights Under the Color of Law) makes it a federal crime for any person acting under color of law, statute, ordinance, regulation, or custom to willfully deprive or cause to be deprived from any person those rights, privileges, or immunities secured or protected by the Constitution and laws of the United States. Under the color of law means the person doing the act is using power given to him or her by a governmental agency (local, state, or federal).

- B. [Title 18 of the United States Code, Section 250](#) (Civil Rights Offenses Involving Sexual Misconduct) makes it unlawful for any person to, in the course of committing an offense under this chapter (Chapter 13-Civil Rights) or under section 901 of the Fair Housing Act (42 U.S.C. 3631), engage in, or cause another to engage in, sexual misconduct.
- C. **Prison Rape Elimination Act** [Title 34 of the United States Code, Section 30301](#) established a "zero-tolerance standard" for rape in prisons in the United States. Deliberate indifference to the substantial risk of sexual assault violates prisoners' rights under the Cruel and Unusual Punishment Clause of the Eighth Amendment.
1. The federal statute defines "prison" as any confinement facility of a federal, state, or local government, whether administered by such government or by a private organization on behalf of such government, and includes **any local jail or police lock-up facility and any juvenile facility** used for the custody or care of juvenile inmates.
  2. The federal statute defines rape as:
    - a. the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person's will;
    - b. the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person's will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity; or
    - c. the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.

**NOTE:** See [Title 34 of the United States Code, Section 30309 \(Definitions\)](#) for further definitions of terms used in item III-C-2 of this directive. Prison Rape Elimination Act (PREA) standards for lockups and additional definitions can be found in the United States Department of Justice Final Rule under [Lockup Standards](#). PREA standards for juvenile facilities can be found in the United States Department of Justice Final Rule ([Juvenile Facility Standards](#)).

#### IV. DEFINITIONS

- A. **Sexual Misconduct:** any behavior by a Department member, occurring on or off duty, that takes advantage of the Department member's position in law enforcement to misuse authority and power, including force, to commit a sexual act, initiate sexual contact with another person, or respond to a perceived sexually motivated cue (from a subtle suggestion to an overt action) from another person; any sexual communication or behavior, occurring on or off duty, by a Department member that would likely be construed as lewd, lascivious, inappropriate, or conduct unbecoming of a Department member; or any attempted or completed act, occurring on or off duty, by a Department member of nonconsensual sexual conduct or nonconsensual sexual penetration, criminal sexual assault, or criminal sexual abuse as defined by this directive, [Title 2, Chapter 2-78-100 of the Municipal Code of Chicago](#), and Section [5/11-0.1 through 5/11-1.60 of the Illinois Criminal Code of 2012](#).
- B. **Sexual Conduct:** any knowing touching or fondling by the victim or the accused Department member, either directly or through clothing, of the sex organs, anus, or breast of the victim or the accused, or any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the accused upon any part of the clothed or unclothed body of the victim, for the purpose of sexual gratification or arousal of the victim or the accused as defined in [720 ILCS 5/11-0.1](#).

- C. **Sexual Contact:** any intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person. As defined by the [United States Code](#). (e.g., groping of individuals engaged in sex work during police interactions and investigations, including while working undercover or in sting operations).
- D. **Sexual Penetration:** any contact involving a Department member and the victim, however slight, between the sex organ or anus of one person and an object or the sex organ, mouth, or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including, but not limited to, cunnilingus, fellatio, or anal penetration. Evidence of emission of semen is not required to prove sexual penetration as defined in [720 ILCS 5/11-0.1](#).
- E. **Acts Under "Color Of Law":** include acts not only done by federal, state, or local officials within the bounds or limits of their lawful authority, but also acts done without and beyond the bounds of their lawful authority; provided that, in order for unlawful acts of any official to be done under "color of any law," the unlawful acts must be done while such official is purporting or pretending to act in the performance of his or her official duties as defined by the [United States Department of Justice](#). (e.g., visiting a crime victim after work "to check on their welfare").
- F. **Criminal Sexual Assault:** a person commits criminal sexual assault if that person commits an act of sexual penetration and uses force or threat of force; knows that the victim is unable to understand the nature of the act or is unable to give knowing consent; is a family member of the victim, and the victim is under 18 years of age; or is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim, and the victim is at least 13 years of age but under 18 years of age according to [720 ILCS 5/11-1.20](#).
- G. **Aggravated Criminal Sexual Assault (a):** a person commits aggravated criminal sexual assault if that person commits criminal sexual assault and any of the following aggravating circumstances exist during the commission of the offense or, for purposes of item IV-G-7 of this directive, occur as part of the same course of conduct as the commission of the offense:
1. the person displays, threatens to use, or uses a dangerous weapon other than a firearm, or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;
  2. the person causes bodily harm to the victim, except as provided in item IV-G-10 of this directive;
  3. the person acts in a manner that threatens or endangers the life of the victim or any other person;
  4. the person commits the criminal sexual assault during the course of committing or attempting to commit any other felony;
  5. the victim is 60 years of age or older;
  6. the victim is a person with a physical disability;
  7. the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the victim's consent or by threat or deception for other than medical purposes;
  8. the person is armed with a firearm;
  9. the person personally discharges a firearm during the commission of the offense; or
  10. the person personally discharges a firearm during the commission of the offense and that discharge proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person, as defined in [720 ILCS 5/11-1.30](#).

- H. **Aggravated Criminal Sexual Assault (b):** a person commits aggravated criminal sexual assault if that person is under 17 years of age and:
1. commits an act of sexual penetration with a victim who is under 9 years of age; or
  2. commits an act of sexual penetration with a victim who is at least 9 years of age but under 13 years of age and the person uses force or threat of force to commit the act, as defined in Illinois law [720 ILCS 5/11-1.30](#).
- I. **Aggravated Criminal Sexual Assault (c):** a person commits aggravated criminal sexual assault if that person commits an act of sexual penetration with a victim who is a person with a severe or profound intellectual disability, as defined in Illinois law [720 ILCS 5/11-1.30](#).
- J. **Predatory Criminal Sexual Assault of a Child:** a person commits predatory criminal sexual assault of a child if that person is 17 years of age or older and commits an act of contact, however slight, between the sex organ or anus of one person and the part of the body of another for the purpose of sexual gratification or arousal of the victim or the accused, or an act of sexual penetration, and:
1. the victim is under 13 years of age; or
  2. the victim is under 13 years of age and that person:
    - a. is armed with a firearm;
    - b. personally discharges a firearm during the commission of the offense;
    - c. causes great bodily harm to the victim that:
      - (1) results in permanent disability; or
      - (2) is life threatening; or
    - d. delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the victim's consent or by threat or deception, for other than medical purposes, as defined in Illinois law [720 ILCS 5/11-1.40](#).
- K. **Criminal Sexual Abuse (a):** a person commits criminal sexual abuse if that person:
1. commits an act of sexual conduct by the use of force or threat of force; or
  2. commits an act of sexual conduct and knows that the victim is unable to understand the nature of the act or is unable to give knowing consent, as defined in Illinois law [720 ILCS 5/11-1.50](#).
- L. **Criminal Sexual Abuse (b):** a person commits criminal sexual abuse if that person is under 17 years of age and commits an act of sexual penetration or sexual conduct with a victim who is at least 9 years of age but under 17 years of age, as defined in Illinois law [720 ILCS 5/11-1.50](#).
- M. **Criminal Sexual Abuse (c):** a person commits criminal sexual abuse if that person commits an act of sexual penetration or sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person is less than 5 years older than the victim, as defined in Illinois law [720 ILCS 5/11-1.50](#).
- N. **Aggravated Criminal Sexual Abuse (a):** A person commits aggravated criminal sexual abuse if that person commits criminal sexual abuse and any of the following aggravating circumstances exist during the commission of the offense or for purposes of (7) as part of the same course of conduct as the commission of the offense:
1. the person displays, threatens to use, or uses a dangerous weapon or any other object fashioned or used in a manner that leads the victim, under the circumstances, reasonably to believe that the object is a dangerous weapon;
  2. the person causes bodily harm to the victim;

3. the victim is 60 years of age or older;
  4. the victim is a person with a physical disability;
  5. the person acts in a manner that threatens or endangers the life of the victim or any other person;
  6. the person commits the criminal sexual abuse during the course of committing or attempting to commit any other felony; or
  7. the person delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim for other than medical purposes without the victim's consent or by threat or deception, as defined in [Illinois law 720 ILCS 5/11-1.50](#).
- O. **Aggravated Criminal Sexual Abuse (b):** a person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is under 18 years of age and the person is a family member, as defined in Illinois law [720 ILCS 5/11-1.50](#).
- P. **Aggravated Criminal Sexual Abuse (c):** a person commits aggravated criminal sexual abuse if:
1. that person is 17 years of age or over and:
    - a. commits an act of sexual conduct with a victim who is under 13 years of age; or
    - b. commits an act of sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person uses force or threat of force to commit the act; or
  2. that person is under 17 years of age and:
    - a. commits an act of sexual conduct with a victim who is under 9 years of age; or
    - b. commits an act of sexual conduct with a victim who is at least 9 years of age but under 17 years of age and the person uses force or threat of force to commit the act, as defined in Illinois law [720 ILCS 5/11-1.50](#).

## V. SPECIFIC PROHIBITIONS

Any sexual misconduct, as defined in this directive, by a Department member is prohibited, including but not limited to the below-listed prohibitions:

- A. **Any act of sexual misconduct**—as defined by Illinois law and this directive, including any criminal act of sexual assault, sexual abuse, sexual conduct, or sexual penetration as defined by [720 ILCS 5/11](#) of Illinois law is prohibited.
- NOTE:** Any act of sexual misconduct committed by a Department member may lead to disciplinary action up to and including separation from the Department and, based on the seriousness of the conduct, a criminal investigation and referral to the appropriate prosecuting agency, when charges are warranted.
- B. **All sexual activity**—all sexually motivated activity and behaviors are prohibited **while on duty**, and no sexual activity **while a Department member is on duty** is considered consensual.
- C. **All sexual contact**—**with anyone while on duty**, specifically between any Department member and detainee or arrestee.
- D. **All sexual contact**—**on or off duty with any juvenile**, including any participant in a Department sponsored youth-based or school program (e.g., Police Explorers, Drug Abuse Resistance Education, and Gang Resistance Education and Training, or between school resource officers and a student is prohibited.

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

**NOTE:** Department members will ensure their law enforcement authority and use of discretion is reasonable, defensible, and not used for an improper purpose (sexual misconduct) consistent with the Department directive titled "[Protection of Human Rights](#)."

- F. **Use of Official Position**—using an official position, Department identification card, star, shield, or badge to coerce, persuade, force, or initiate sexual contact or penetration with anyone, or to solicit sexual conduct, when on or off duty, is prohibited.

- G. **Gratuitous physical contact**—inappropriate, unnecessary, or unnecessarily invasive searches or pat downs of individuals and arrestees or unnecessary physical contact with members of the public is prohibited.

1. Department members will conduct Protective Pat Downs consistent with the Department directives titled "[Investigatory Stop System](#)" and "[Interactions With Transgender, Intersex, and Gender Nonconforming \(TIGN\) Individuals](#)."
2. Department members will conduct custodial searches consistent with the Department directives titled "[Restraining Arrestees](#)" and "[Conducting Strip Searches](#)."

- H. **Unlawful search to assign gender**—the search or pat down of a person for the purpose of viewing or assigning gender based on the person's anatomy or genitalia or for any demeaning or harassing purpose is prohibited. Further guidance on the respectful treatment of transgender, intersex, and gender nonconforming (TIGN) individuals can be found in the Department directive titled "[Interactions with Transgender, Intersex, and Gender Nonconforming \(TIGN\) Individuals](#)."

- I. **Unlawful cavity search**—No search of any body cavity (including the vagina or rectum) other than the mouth shall be conducted without a duly executed search warrant; any warrant authorizing a body cavity search will specify that the search must be performed under sanitary conditions and conducted either by or under the supervision of a physician licensed to practice medicine in all of its branches in this State, in accordance with the Department directive titled "[Conducting Strip Searches](#)."

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

- K. **Sexual contact while on duty**—any intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person is prohibited, as defined by the [United States Justice Department](#) (e.g., groping of individuals engaged in sex work during police interactions and investigations, including while working undercover or in sting operations).

Department members will not expose their genitals/breasts, allow their genitals/breasts to be touched, touch the genitals/breasts of another, or engage in any sexual act to establish probable cause for arrest or convince others that they are not associated with law enforcement. If the individual being investigated makes sexual contact with a Department member, the Department member will immediately disengage from any such act and report the circumstances surrounding the incident to their immediate supervisor.

- L. **Sexual harassment**—There is a broad range of conduct which may, in certain circumstances, be considered sexual harassment either directly or indirectly and is prohibited. Examples of such conduct include, but are not limited to, sexually suggestive or offensive remarks, sexually suggestive pictures or graffiti, sexually suggestive gesturing, and verbal harassment. For more information on sexual harassment, Department members will refer to the Department directive titled "[Equal Employment Opportunity Policy](#)."
- M. **All sexual behavior**—All sexual behavior and activity are prohibited while on duty or in a Department facility, Department vehicle, or on a Department device and includes, but is not limited to, consensual sexual relations, masturbation, viewing or distributing pornographic images, and sexting.
- N. **Voyeurism**—An invasion of privacy against an arrestee, detainee, or member of the public that is unrelated to official duties is prohibited (e.g., peering at an arrestee using the toilet to perform bodily functions; requiring an arrestee to expose their buttocks, genitals, or breasts; or taking images of all or part of an arrestee's naked body or of a bodily function being performed).
- O. **Unnecessary contacts**—actions taken by Department members for personal or sexually motivated reasons including unwarranted call backs to crime victims and unnecessary law enforcement activity are prohibited (e.g., making a traffic stop or pedestrian stop without lawful justification to get a closer look at the driver for non-professional reasons).
- P. **Inappropriate and unauthorized use of Department resources or information systems**—is prohibited. Department members will only use Department resources and information systems for legitimate law enforcement purposes, in accordance with existing directives.

**NOTE:** All prohibitions of this sexual misconduct policy including but not limited to the above prohibitions are prohibited against detainees, arrestees, and in anyone police lock up or detaining facility. Violations of this policy could constitute a federal crime under the Prison Rape Elimination Act "[Title 34 of the United States Code, Section 30301](#)."

## VI. PREVENTION, EARLY WARNING SIGNS, AND PEER INTERVENTION

### A. Prevention

#### Applicant Screening

The Chicago Police Department hires individuals who demonstrate high standards of integrity and share the Department's mission and values by screening out those who do not share the Department's ethical and professional values. Information indicating that an applicant engaged in criminal conduct; exhibited behavior demonstrating a disregard for standards of conduct; shown disrespect for authority, the law, and its institutions; engaged in discriminatory or biased behavior; or engaged in conduct demonstrating a propensity for dishonesty or untruthfulness may result in an applicant being disqualified from the application process. Further information on the applicant screening process can be found at [www.chicagopolice.org](http://www.chicagopolice.org).

### B. Early Warning Signs

1. In accordance with the Department's vision statement "that all people in the City of Chicago are safe, supported, and proud of the Chicago Police Department," members will be mindful of the signs and behaviors that may lead to sexual misconduct, including past problematic behaviors such as misconduct allegations that are verbal or physical in nature. Early warning signs include, but are not limited to:
  - a. aggressiveness, abuse of power, and excessive or increasing use of force;
  - b. public or co-worker complaints regarding sexually suggestive comments and jokes or comments that are objectifying and degrading with respect to gender identity, sexual orientation, LGBTQI+ people, or survivors of sexual or domestic abuse;
  - c. excessive/unnecessary call-backs or visits to the homes or workplace of victims, witnesses, and suspects;

- d. stalking or inappropriate surveillance activities or the misuse of police technology and information systems;
  - e. consistent patterns of time not accounted for, not answering calls for service, or patrolling or investigating out of assigned areas of responsibility;
  - f. suspicious patterns of enforcement and engagement activity, including traffic stops, ticketing, detentions, arrests (e.g., times, locations, race, gender, gender identity, age);
  - g. suspicious patterns of use or inconsistent use of in-car or body-worn cameras; or
  - h. rumors and reputation of possible violation of this policy.
2. Potential victims of sexual misconduct are often selected based on perceived or actual vulnerabilities like lack of credibility, socioeconomic status, and race.

Therefore, Department members should be aware that victimization is often higher among certain populations, including the following: minors; commercial sex worker; those under the influence of drugs or alcohol; undocumented persons; those with limited English proficiency; those with mental illness, developmental challenges, or physical disabilities; and those that have been previously victimized.

**NOTE:** Sexual misconduct may be directed at colleagues, community members, detainees, arrestees, youths, and crime victims or witnesses.

3. Department members involved in youth-based and school programs (DARE, GREAT, Police Explorers, etc.) will uphold the Department's Vision Statement "that all people in the City of Chicago are safe, supported, and proud of the Chicago Police Department," particularly as it pertains to youth, by identifying the following warning signs and inappropriate behaviors:

**Grooming**—the process by which a perpetrator seeks to gain the trust of a potential Child victim to normalize sexual contact over time. In general, perpetrators may engage in four stages of "grooming":

- a. targeting a potential victim (e.g., targeting a particular juvenile for personal attention or friendship);
- b. building trust and friendship (e.g., asking a juvenile to keep secrets or coercing a juvenile to confide in their problems);
- c. starting to isolate and control the juvenile; and
- d. initiating sexual contact and securing the victim's secrecy.

**NOTE:** Department members are mandated reporters. A mandated reporter must report to DCFS any sexual misconduct by an adult against a child as well as any interactions or behaviors that suggest that an adult has or had an inappropriately intimate relationship with a child or may be grooming a child, even if the employee does not have reasonable suspicion that sex abuse is occurring or has occurred. A mandated reporter is required to immediately call the DCFS Hotline at 1-800-252-2873 (1-800-25-ABUSE).

### C. **Intervention/Peer Accountability**

As affirmed in the Department directive titled "[Vision, Mission Statement, AND Core Values](#)" all Department members will act in a unified manner to uphold the Vision and Mission Statements and Core Values of the Chicago Police Department. In that vein, it is the responsibility of all Department members to assist in the prevention of sexual misconduct by:

- 1. not participating in or encouraging in any action that could be perceived as unprofessional and or sexual misconduct or harassment.

2. encouraging any Department member who confides that they are being treated unprofessionally or harassed in violation of this policy to report those acts to a supervisor, the Civilian Office of Police Accountability (COPA), or the Bureau of Internal Affairs (BIA).
3. intervening in and reporting acts of sexual misconduct consistent with this directive and the procedures outlined in the Department directive titled "[Complaint Initiation and Log Number Investigation Assignment](#)."

**D. Supervisor Role in Prevention and Intervention**

Supervisors of all ranks are held accountable to prevent, identify, and correct adverse officer behavior directly observed or under their direct command. Department supervisors will:

1. perform random observations and in-person supervision and support at calls for service, traffic stops, investigatory stops, pat downs, and searches;
2. monitor the work environment for warning signs, patterns, or indicators that sexual misconduct may be occurring;
3. utilize all reasonable means to prevent a prohibited act of sexual misconduct from occurring when they know or suspect that an employee will or may perform such an activity;
4. upon observing or receiving information regarding conduct that may violate this policy, take immediate action to prevent further sexual misconduct, regardless of whether the complainant wants any action taken on the complainant's behalf; and
5. take immediate action to prevent retaliatory conduct toward the victim and witnesses and to eliminate the hostile, humiliating, demeaning, or sexually offensive environment where there has been a complaint of sexual misconduct.

**VII. PROCEDURES FOR ACCEPTING, DOCUMENTING, AND SUBMITTING COMPLAINTS OF SEXUAL MISCONDUCT**

- A. All Department members are required to report suspected violations of this policy (including when a juvenile is involved) consistent with the procedures outlined in the Department directive titled "[Complaint Initiation and Log Number Investigation Assignment](#)."

**NOTE:** If there is a juvenile involved in the sexual misconduct, Department members will also notify the juvenile's parent or guardian.

- B. Failure to report to the Department any violation of the Rules and [Regulations of the Chicago Police Department](#) or any other improper conduct which is contrary to the policy, orders, or directives of the Department is a violation of Rules 21 and 22 of the [Rules and Regulations of the Chicago Police Department](#).

- C. Department members will not refuse to accept a complaint, discourage the filing of a complaint, or provide false or misleading information about filing a complaint to anyone requesting to file a complaint against a Department member.

**NOTE:** A complaint of sexual misconduct will be taken from any complainant, even if the complainant is a juvenile.

- D. When a Department member observes another Department member engaged in an act of sexual misconduct, knows of an allegation of sexual misconduct, receives a report of sexual misconduct from a victim, or becomes aware that a member of the public wants to submit a complaint of sexual misconduct, they will immediately intervene to stop the misconduct, and once the scene is safe and as soon as practical the member:

1. must provide appropriate medical care consistent with their training and request emergency medical services (EMS) from the Chicago Fire Department via the Office of Emergency Management and Communications (OEMC) whenever a person is injured, complains of injury, or requests medical attention.

2. will promptly provide the victim with the Civilian Office of Police Accountability's (COPA's) contact information (as listed in item VII-H-3 of this directive) and notify his or her immediate supervisor of the complaint received and request he or she respond to the scene.

**NOTE:** If it is alleged that the responding supervisor authorized, engaged in conduct that led to, witnessed, or otherwise participated in the incident complained of, the reporting Department member will contact his or her next-level supervisor in the member's chain of command, who will assign another supervisor to immediately document the complaint and submit it to the Civilian Office of Police Accountability. Department members may also contact a supervisor in the Bureau of Internal Affairs to request an alternative reporting method when the accused is in the member's chain of command.

- E. Reporting Department members will prepare a To-From-Subject Report to their commanding officer and submit it to a supervisor before reporting off duty on the day the member becomes aware of the misconduct or has direct knowledge of the alleged misconduct, following the guidelines of the Department directive titled "[Complaint Initiation and Log Number Investigation Assignment](#)."
- F. Department members who have been a victim of sexual misconduct will immediately notify a Department supervisor, sworn or civilian, and prepare a To-From-Subject Report describing the incident or acts of misconduct. Department members may bring a report of sexual misconduct to any Department supervisor, including directly reporting the allegation to a supervisor in the Bureau of Internal Affairs.
- G. Responding supervisors will document the complaint, and submit it to the Civilian Office of Police Accountability following the guidelines outlined in the Department Directives titled "[Complaint Initiation and Log Number Investigation Assignment](#)" and "[Special Situations Involving Allegations of Misconduct](#)."
- H. The Department provides numerous opportunities and methods, including anonymously and through third-party representatives, to submit complaints and report allegations of misconduct against Department members. Violations of this policy can be reported in the following ways:
  1. in person, to any **Department supervisor**;
  2. by mail, phone, or anonymously through an online complaint form to **the Office of Inspector General (OIG)**. For more information visit the [OIG's website](#).

**NOTE:** Reports made anonymously on the OIG online complaint form will not relieve Department members of their duties to report under the Rules of Conduct 21 and 22 of the [Chicago Police Department Rules and Regulations](#).

3. in person, by mail, phone (311, 911, and 312-743-COPA) or online (anonymously or named) through the **Civilian Office of Police Accountability**. For more information visit the [Civilian Office of Police Accountability](#) website.
4. in person or by phone to the **Bureau of Internal Affairs (BIA)** of the Chicago Police Department, 312-745-6310.

## VIII. SUPERVISORY AND COMMAND STAFF RESPONSIBILITIES

Whenever a supervisory Department member or command staff member observes a Department member engaged in misconduct, or becomes aware that a member of the public or a Department member wants to submit a complaint of misconduct, they will immediately intervene to stop the misconduct and, once the scene is safe and as soon as practical, the supervisor:

- A. must provide appropriate medical care consistent with their training and request emergency medical services from the Chicago Fire Department via the Office of Emergency Management and Communications whenever a person is injured, complains of injury, or requests medical attention.

- B. **if not on scene**, the notified supervisor will respond to the scene at the earliest opportunity the notified supervisor is available to respond.
1. If the notified supervisor determines a response is delayed and unlikely prior to the scheduled conclusion of their tour of duty (e.g., continued management of an incident scene), the notified supervisor will:
    - a. request the Office of Emergency Management and Communications contact the complainant and notify them of the delay.
    - b. document the delay in the response and the reason for the delay on their Supervisor's Management Log ([CPD-11.455](#)).
    - c. notify the watch operations lieutenant of the delay in the response.

**NOTE:** The notified supervisor's tour of duty will not conclude until they respond to the scene as assigned or the event is reassigned by the watch operations lieutenant.
  2. When notified of delayed supervisory response, the watch operations lieutenant will:
    - a. review the availability status of the notified supervisor to determine if reassignment is necessary.
    - b. if necessary, promptly reassign an available field supervisor to meet with the member of the public who is reporting a complaint, including the assignment of other district supervisory resources such as another field sergeant, the field lieutenant, or a tactical team sergeant.
    - c. if the response must be delayed until the on-coming watch, inform the on-coming watch operations lieutenant of the need to assign a supervisor to respond.

**NOTE:** The on-coming watch operations lieutenant will assign an available field supervisor from their watch to immediately respond to the scene.

    - d. ensure the delay in response is documented on the Watch Incident Log ([CPD-21.916](#)).
  3. The re-assigned supervisor will notify OEMC of the re-assignment and will immediately respond to the scene.
  4. Watch operations lieutenants will monitor the Police Computer Aided Dispatch (PCAD) and dispatched radio assignments to identify any delays in supervisory responses and ensure the notified supervisors respond at the earliest opportunity they are available.
- C. take immediate action to stop any misconduct and perform all duties consistent with any applicable Department directives including those outlined in the Department directive titled "[Complaint Initiation and Log Number Investigation Assignment](#)."
- D. **will notify the Bureau of Internal Affairs of the Chicago Police Department by calling:**
1. **312-745-6310 between the hours of 0800 and 1630, or**
  2. **the Crime Prevention and Information Center at Pax 0100 or 0301 between the hours of 1630 and 0800.**
- E. when the Department member works in a detention facility, ensure the requirements established by the **Prison Rape Elimination Act**, as outlined in item III-C of this directive, are adhered to and followed.

- F. refrain from discussing specific details of any investigation regarding a complaint of sexual misconduct conducted by the Department to anyone except those directly involved with the investigation.
- G. thank the complainant or other reporting party for reporting the potential violation and assure them that the report will be taken seriously, remain confidential, and thoroughly investigated. The complainant will also be referred to a local sexual assault advocacy agency and will be informed of investigative procedures and their rights consistent with the Sexual Assault Incident Notice ([CPD-23.404](#)).

## IX. ALTERNATE OPTION TO REPORT SEXUAL MISCONDUCT

- A. Sexual harassment, assault, and misconduct by law enforcement are significantly underreported due to a victim's reluctance on reporting an offender who is a member of law enforcement. Therefore, victim advocacy groups may be critical in assisting victims to report sexual misconduct by a Department member by using a victim-centered approach (making decisions in support of the victim) and trauma-informed assistance (consideration is given to how trauma could interfere with the victims reporting of the incident).
- B. The Department will partner with victim advocacy groups to assist in the appropriate reporting of the incident, including eliminating barriers to reporting and providing victim support services.
- C. When notified of a report of sexual misconduct via a victim advocacy group, Department members will work with representatives from the organization and will receive such reports in compliance with Item VII of this directive.
- D. All victims can benefit from a variety of services that are offered from community-based agencies. For this reason, it is important that each victim of sexual misconduct by a Department member be given a referral to **The Chicago Rape Crisis Hotline at 888-293-2080**, ensuring that all victims have access to confidential and supportive services. The Chicago Rape Crisis Hotline offers victims of sexual misconduct the following services:
  - 1. Individual and group counseling for adults, teens, children, and non-offending significant others;
  - 2. Anonymous telephone counseling; and
  - 3. Help with the investigative and courtroom process.

## X. RETALIATION

- A. The Department prohibits all forms of retaliation, including discouragement, intimidation, coercion, or adverse action, against any person who reports misconduct, makes a misconduct complaint, or cooperates with an investigation of misconduct. Department members will speak and conduct themselves in a professional manner and maintain a courteous attitude to minimize re-victimization.
- B. No Department member who is the subject of a misconduct complaint will intentionally contact, cause another to contact, or take any action against a victim or a witness involved in the misconduct complaint in retaliation for the victim or witness having filed or provided information in support of a misconduct victim. If the accused Department member makes such contact or takes such action, the victim or witness should immediately notify a supervisor.

**NOTE:** Supervisors who determine that alternative reporting or notification methods are necessary for officer safety or to prevent further retaliation or misconduct will contact a supervisor in the BIA for guidance and alternative methods as outlined in the Department directive titled "[Prohibition of Retaliation.](#)"

- C. Department members responding to and investigating reported violations of this policy will work with victims and service providers to address victim fears in the reporting process, conduct safety planning, and develop steps to prevent and address potential for retaliation.

- D. Retaliation is an egregious offense that will not be tolerated. Any Department member who retaliates against another member or member of the community will be subject to disciplinary action up to and including separation from the Department.

## **XI. SUPPORT FOR ALL VICTIMS OF POLICE SEXUAL MISCONDUCT**

Any victim of sexual misconduct by a Department member should be treated with professionalism and dignity. It is essential that the victim making reports or filing complaints are shown respect and the reports are taken seriously throughout the investigative process. Department members will provide trauma-informed services and resources to best support the victim. More information on services available to victims can be found in the Department directive titled "[Crime Victim And Witness Assistance](#)." Victim assistance and resources include, but is not limited to, the following written information notices:

- A. Victim Information Notice ([CPD-11.383-E](#));
- B. Sexual Assault Incident Notice ([CPD-23.404](#));
- C. Illinois Attorney General's Statement of Crime Victims' Rights ([OAGCV-01-19](#).); and
- D. Officer Involved Sexual Misconduct pamphlet.

**NOTE:** The Employee Assistance Program (EAP) is available to Department members to help support them through the stress they may experience throughout the investigative process. Members seeking assistance and support as outlined in the Department directive titled "[Professional Counseling Division](#)" will be offered services at no expense to the member. A member's participation in a counseling service will be voluntary and confidential.

## **XII. DATA ANALYTICS**

- A. The Case Management System (CMS) maintains investigative files for sexual misconduct including the number, classification, status of the investigation, and administrative notifications from the intake process to the final disciplinary decision. Additionally, files will be maintained if and through any grievance process, arbitration, Police Board proceeding, or appeals relating to the final disciplinary decision.
- B. Within ten days of receiving the final disciplinary decision of each complaint of sexual misconduct against a Department member reporting misconduct against a non-Department member, the Deputy Inspector General for Public Safety (PSIG) will be provided with the complete administrative investigative file, subject to applicable law. The Deputy PSIG will review and analyze each administrative investigative file and, on an annual basis, the Deputy PSIG will publish a report:
  - 1. assessing the quality of the sexual misconduct administrative investigations reviewed;
  - 2. recommending changes in policies and practices to better prevent, detect, or investigate sexual misconduct; and
  - 3. providing aggregate data on the administrative investigations reviewed, including:
    - a. the volume and nature of reports investigated, broken down by investigating agency;
    - b. the percentage of investigations referred to the Cook County State's Attorney's Office or other prosecuting agency for criminal review;
    - c. the percentage of investigations criminally prosecuted;
    - d. the percentage of investigations closed after the preliminary investigation;
    - e. the percentage of investigations closed for lack of a signed complainant affidavit; and
    - f. the investigative findings and recommendations, including a summary breakdown of discipline recommended for investigations with sustained findings.

## **XIII. TRAINING**

All Department members will undergo regular and refresher training concerning sexual misconduct, prohibitions, and trauma-informed and victim-centered approaches to investigations of sexual misconduct, as defined in the policy.

Fred L. Waller  
Interim Superintendent of Police

19-059 DMC/ASH/KLW



***QUESTIONS? EMAIL [OIG@OAKLANDCA.GOV](mailto:OIG@OAKLANDCA.GOV)***