



CITY OF CHICAGO
OFFICE OF INSPECTOR GENERAL

20
23

Recommendations to Inform and Improve Future Investigations Regarding Fatal Motor Vehicle Accidents Conducted by CPD and COPA

MAY 31, 2023

DEBORAH WITZBURG | INSPECTOR GENERAL FOR THE CITY OF CHICAGO
TOBARA RICHARDSON | DEPUTY INSPECTOR GENERAL FOR PUBLIC SAFETY

May 31, 2023

Pursuant to the Municipal Code of Chicago (MCC) § 2-56-230(c), the Public Safety section of the City of Chicago Office of Inspector General (OIG) conducts reviews of individual closed disciplinary investigations conducted by the Civilian Office of Police Accountability (COPA) and the Chicago Police Department's (CPD) Bureau of Internal Affairs (BIA). Based on those reviews, OIG may make recommendations to inform and improve future disciplinary investigations in order to ensure that they are complete, thorough, objective, and fair.

During its regular review of closed disciplinary investigations conducted by BIA and COPA, OIG identified a policy that may cause confusion around investigative jurisdiction for officer-involved fatal motor vehicle accidents.

The case reviewed by OIG involved an officer who, while en route to a call for police assistance, fatally struck an individual riding on a motorbike. The individual who was killed in the accident was not involved in the circumstances which gave rise to the call for police assistance.

COPA received a notification of the incident and determined that it was not within the agency's jurisdiction and referred the case to BIA. BIA conducted a preliminary investigation and Administratively Closed the investigation without an explanation.

OIG determined that neither BIA nor COPA investigated the motor vehicle accident to determine whether the officer involved engaged in misconduct that led to the fatal incident.

OIG identified several laws and policies which speak to the investigation of an officer-involved fatal motor vehicle accident, including the Police and Community Relations Improvement Act (PCRIA) 50 ILCS 727/1-5, the MCC § 2-78-120 (d) and (e), COPA's Rules and Regulations Section 3.10.3.1, and CPD's Special Order S08-03, Traffic Crash/Pursuit Review. According to OIG's review, there is some ambiguity across the sources of authority on the appropriate handling of disciplinary investigations involving fatal motor vehicle accidents.

In order to inform and improve future investigations, OIG recommended that COPA and BIA: (1) confer to address and resolve the apparent confusion regarding which investigating agency has jurisdiction over officer-involved fatal motor vehicle accidents where the victim of the accident was not involved in the underlying law enforcement action;(2) work with the City Council's Committee on Public Safety to update the MCC to align with PCRIA as relevant here, and to clarify the circumstances under which COPA has jurisdiction to investigate fatal motor vehicle accidents; and, (3) update their written policies regarding officer-involved fatal motor vehicle accidents to align with relevant and applicable law.

In response to OIG's recommendations, COPA conferred with BIA to resolve confusion around jurisdictional issues with officer-involved fatal motor vehicle accidents. COPA updated its written policy for consistency with the statements of COPA's jurisdiction under PCRIA and the MCC and will update its Rules and Regulations. COPA disagreed with OIG's recommendation to work with City Council's Committee on Public Safety to update the MCC to align with PCRIA, reporting its

view that such an update would be unnecessary. CPD responded that it is updating its relevant directive but disagreed that an update to the MCC would be required. CPD also advised that BIA will reopen the individual investigation the review of which prompted OIG's recommendations.

OIG's letter to COPA, BIA, and the Chair of the Committee on Public Safety containing its recommendations is attached in Appendix A, COPA's response is attached as Appendix B, and BIA's response is attached in Appendix C.

Appendix A | OIG Letter to CPD and COPA



Deborah Witzburg | Inspector General
City of Chicago
Office of Inspector General
740 N. Sedgwick St., Ste 200
Chicago, IL 60654
Phone: (773) 478-7799

Via Electronic Mail

December 29, 2022

CHIEF YOLANDA TALLEY
BUREAU OF INTERNAL AFFAIRS
CHICAGO POLICE DEPARTMENT
3510 SOUTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60653

ANDREA KERSTEN
CHIEF ADMINISTRATOR
CIVILIAN OFFICE OF POLICE ACCOUNTABILITY
1615 WEST CHICAGO AVENUE, 4TH FLOOR
CHICAGO, ILLINOIS 60622

ALDERMAN CHRIS TALIAFERRO
CHAIR OF THE COMMITTEE ON PUBLIC SAFETY
CHICAGO CITY COUNCIL
121 NORTH LASALLE STREET
CHICAGO, ILLINOIS 60602

Re: Recommendation to Inform and Improve Future Investigations Regarding Fatal Motor Vehicle Accidents

Dear Chief Talley, Chief Administrator Kersten, and Chairman Taliaferro:

Pursuant to the Municipal Code of Chicago (MCC) §§ 2-56-30 and -230, the Public Safety section of the City of Chicago Office of Inspector General (OIG) writes to recommend measures to inform and improve future disciplinary investigations conducted by the Chicago Police Department (CPD) Bureau of Internal Affairs (BIA) and the Civilian Office of Police Accountability (COPA).

In the course of its regular review of closed disciplinary investigations conducted by BIA and COPA, OIG has identified an ambiguous policy that may cause confusion around investigative jurisdiction for officer-involved fatal motor vehicle accidents.

OIG reviewed a closed disciplinary investigation conducted by BIA in Log# 2021-0003780, involving a lawsuit filed against a CPD member who was responding to a call for police service when he fatally struck a man riding a motor bike. The man on the motor bike was not involved in the circumstances which gave rise to the original call for police service. COPA received a notification of

the traffic crash and determined that the incident was not within its jurisdiction.¹ COPA's case file contains a letter dated July 10, 2020 from COPA to CPD Superintendent David O. Brown regarding "Traffic Incident Notifications."² The letter states, "COPA and the Cook County State's Attorney's Office concur that the Police and Community Relations Improvement Act (PCRIA) covers vehicle pursuits in which the subject of the pursuit is fatally injured. However, PCRIA does not apply to scenarios in which the death of an uninvolved citizen occurs during a vehicle pursuit, or other fatal traffic accidents." The letter further states, "Going forward, once COPA confirms that a traffic incident is not subject to PCRIA, we will immediately forward the matter to the Department so that its Traffic Review Board, Major Accidents Unit, and/or Bureau of Internal Affairs can begin review."³

During its preliminary investigation in Log #2021-0003780, BIA obtained a printout of a CPD Crash Damage Report, which categorizes the incident as a Class 3 crash, and a Traffic Crash Report, Records Division (RD) # JD290987.⁴ The CPD Crash Damage Report contains a section entitled "Traffic Review Board Determination and Action Taken," where the question is posed "[w]as the incident preventable?" The report notes that the question would be subject to "investigation by BOA/COPA [sic]." BIA administratively closed Log #2021-0003780 with no documented explanation other than that the "incident was documented under Records Division (RD)# JD-290987 [traffic crash report] and JD-291594."⁵

Neither BIA nor COPA appear to have conducted any investigation into whether there was any misconduct at issue in the officer-involved fatal motor vehicle accident; that is, there has been no determination made as to whether or not any discipline is appropriate for conduct by a CPD member leading to a death.

OIG identified several laws and policies which speak to the investigation of officer-involved fatal motor vehicle accidents. PCRIA Section 50 ILCS 727/1-5 states that "[O]fficer-involved death" means any death of an individual that results directly from an action or directly from an intentional omission [] of a law enforcement officer while the officer is on duty [] "[O]fficer-involved death" includes any death resulting from a motor vehicle accident, if the law enforcement officer was engaged in law enforcement activity involving the individual or the individual's vehicle in the process of apprehension or attempt to apprehend."⁶

Pursuant to MCC § 2-78-120 (d) and (e), COPA has the authority to conduct investigations into "incidents, including those in which no allegation of misconduct is made, where a person dies or sustains a serious bodily injury while detained or in Police Department custody, or as a result of police actions, such as during attempts to apprehend a suspect" and into "all incidents of an officer-involved death," as that term is defined in 50 ILCS 727/1-5. Additionally, COPA's Rules and Regulations include the following in Section 3.10.3.1: "Major Case Incidents include: any police-involved motor vehicle accident resulting in the death of a civilian while exercising police powers or acting under the color of law."⁷

¹ The notification is recorded under Log #2020-0003104, which was Administratively Closed.

² Log # 2020-0003104, Att. 7

³ [COPA Traffic Accident Jurisdiction Letter to Superintendent Brown.](#)

⁴ Attachments 6 and 7.

⁵ Attachment 11.

⁶ [50 ILCS 727. Police and Community Relations Improvement Act.](#)

⁷ [Final-COPA-Rules-and-Regulations-April-2018](#)

CPD maintains several directives related to traffic crashes and officer-involved fatalities. In Special Order S08-03, "Traffic Crash/Pursuit Review," Section II.E. states that "consistent with the Police and Community Relations Improvement Act (50 ILCS 727), the Civilian Office of Police Accountability (COPA) will conduct all officer-involved death investigations including any death resulting from a motor vehicle accident. The on-scene COPA personnel will coordinate and direct any investigative activity at the scene that relates to the actual officer-involved death." Additionally, Section II.F. states "The Bureau of Internal Affairs will be responsible for investigating motor vehicle pursuits or crashes when a Complaint Register is obtained and the incident does not include an officer-involved death."⁸

Further, Special Order S04-07-03, "Traffic Crashes Involving Department Members," classifies vehicle crashes into three groups. Section III.C.1-2. states that a "Classification 3 applies when a member has operated a Department vehicle in a manner which displayed a disregard for personal safety or the safety of others" and that "a Classification 3 crash will require a CR investigation and the procedures outlined in the Department directive entitled "Complaint and Disciplinary Procedures" will be followed."⁹ Per General Order G08-01, "Complaint and Disciplinary System," a Complaint Register, or CR, investigation refers to the log number classification assigned to an incident in order to conduct a full investigation. G08-01 states that any Log Number investigation, including those created not from a complaint but from a notification, must be conducted fairly, impartially, and efficiently by either COPA or BIA.¹⁰ Per General Order G08-01-02, "Complaint Initiation and Log Number Investigation Assignment," Section V.A.6.b.3. charges COPA with retaining and investigating "incidents involving Department members, including those in which no allegation of misconduct is made, [that results in] the death or serious bodily injury of a person while detained or in Department custody, or as the result of police actions."¹¹

In order to inform and improve future investigations, OIG recommends the following:

1. COPA and BIA should confer to address and resolve the apparent confusion regarding which investigating agency has jurisdiction over officer-involved fatal motor vehicle accidents where the victim of the accident was not involved in the underlying law enforcement action.
2. As necessary, BIA and COPA should work with the City Council's Committee on Public Safety to update the MCC to align with PCRIA, and to clarify the circumstances under which COPA has jurisdiction to investigate fatal motor vehicle accidents.
3. COPA and BIA should update their written policies regarding officer-involved fatal motor vehicle accidents to align with relevant and applicable law.

⁸ [S08-03 Traffic Crash Pursuit Review](#)

⁹ [S04-07-03 Traffic Crashes Involving Department Members](#)

¹⁰ [G08-01 Complaint and Disciplinary System](#)

¹¹ [G08-01-02 Complaint Initiation and Log Number Investigation Assignment](#)

Please provide written responses to these recommendations by January 30, 2023. You may contact Chief Investigative Analyst LaDonna Candia-Flanagan at lcandia-flanagan@igchicago.org or (773) 478-5614 with any questions. OIG looks forward to your agencies' respective responses, which will be published in accordance with MCC ¶ 2-56-250.

Respectfully,



Tobara Richardson
Deputy Inspector General for Public Safety
Office of Inspector General

cc: Deborah Witzburg, Inspector General, OIG
Megan Carlson, Associate General Counsel for Public Safety, OIG
LaDonna Candia-Flanagan, Chief Investigative Analyst for Public Safety, OIG
Deputy Chief Traci Walker, BIA, CPD
Dana O'Malley, General Counsel, CPD
Matthew Burke, Deputy Director of Litigation, CPD
Robin Murphy, General Counsel, COPA
Angela Snell, Chief Investigative Law Officer, COPA
Elena Gottreich, Deputy Mayor of Public Safety, City of Chicago

Appendix B | COPA's Response to OIG



CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

INTEGRITY • TRANSPARENCY • INDEPENDENCE • TIMELINESS

February 28, 2023

Via Electronic Mail

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

Re: OIG Recommendation to Inform and Improve Future Investigations
Regarding Fatal Motor Vehicle Accidents

Dear Deputy Inspector General Richardson:

Thank you for your December 29, 2022 letter recommending measures to inform and improve disciplinary investigations conducted by our office and the Chicago Police Department's (CPD) Bureau of Internal Affairs (BIA). Your recommendation letter referenced an Office of Inspector General (OIG) review of log #21-0003780, which involved a responding CPD member fatally striking an individual on a motor bike who was not the cause for the member's emergency response. We understand that per its February 2, 2023 letter to your office, BIA has decided to re-open this investigation.

First, while I appreciate the attention to these important cases, it is important to note the procedural context of this investigation. On July 10, 2020, former COPA Chief Administrator Sydney Roberts sent a letter to CPD and BIA stating, "Going forward, once COPA confirms that a traffic incident is not subject to PCRIA, we will immediately forward the matter to the Department so that its Traffic Review Board, Major Accidents Unit, and/or Bureau of Internal Affairs can begin review."

The complaint associated with log #21-0003780 was initiated upon a civil lawsuit in Cook County Circuit Court on June 9, 2021. Based on a previous preliminary investigation and notification consistent with the July 10, 2020 letter from Chief Roberts, COPA Intake staff assigned log #21-0003780 to BIA on September 23, 2021.

We acknowledge that COPA could have more effectively communicated with BIA this jurisdictional decision in 2020 given the landscape of the Police and Community Relations Improvement Act (PCRIA), 50 ILCS 727/1-5, and COPA's municipal ordinance. COPA's enabling ordinance includes the following 'powers and duties' relevant to fatal motor vehicle accidents:

- (d) To conduct investigations into incidents, including those in which no allegation of misconduct is made, where a person dies or sustains bodily injury

while detained or in Police Department custody, or as a result of police actions, such as during attempts to apprehend a subject;

(e) To conduct investigations into all incidents of an “officer-involved death, as that term is defined in 50 ILCS 727/1-5 [PCRIA];¹

In motor vehicle accidents, specifically, PCRIA defines “officer-involved death” to include:

any death resulting from a motor vehicle accident, if the law enforcement officer was engaged in law enforcement activity involving the individual or the individual's vehicle in the process of apprehension or attempt to apprehend.²

Thus, an officer-involved fatal motor vehicle accident in which the victim of the accident was not involved in the underlying law enforcement action would be beyond the ambit of PCRIA, and COPA’s jurisdictional authority under MCC 2-78-120(e).³

As to subsection 2-78-120(d), we understand it not to mandate investigation over all enumerated incidents, but rather to empower COPA to conduct investigations, in its discretion, across a broad category of potential misconduct. Given the inclusion of “all” in some, but not all, of COPA investigative powers and duties, we believe City Council’s omission of “all” before “incidents” in this subsection was meaningful. In contrast, subsection 2-78-120(e) mandates that COPA perform “all” administrative investigations of “officer-involved deaths” under PCRIA.⁴

Your letter further cited Section 3.10.3.1 of COPA’s Rules and Regulations which defined ‘Major Case Incidents’ to include “any police-involved motor vehicle accident resulting in the death of a civilian while exercising police powers or acting under the color of law.” This definition does not require COPA to investigate all such incidents as defined therein. Yet we would agree that it does not track PCRIA’s definition of “officer-involved death” or articulate COPA’s discretion of non-PCRIA fatal motor vehicle accident investigations. COPA’s Rules and Regulations were last revised almost 5 years ago and before the issuance of the Consent Decree and COPA’s revised Intake Policy, which was made effective in 2021. Accordingly, we are undergoing a review and update of our Rules and Regulations to more closely align with our ordinance and revised Consent Decree-required policies. We will seek to clarify this definition in that review process.

Finally, we acknowledge that there may be inconsistency between CPD Directives and COPA’s jurisdiction as set forth here. As an independent agency, COPA’s own investigative jurisdiction is not bound by CPD’s Directives. However, we have now confirmed a shared understanding with BIA on officer-involved fatal motor vehicle accidents. Under 2-78-120(e), COPA has jurisdiction to investigate all “officer-involved deaths” as defined by PCRIA. And under 2-78-120(d), COPA retains discretion to investigate, or in the alternative assign to BIA, officer-

¹ MCC 2-78-120.

² 50 ILCS 727/1-5.

³ This interpretation of PCRIA’s scope is shared by the Cook County State’s Attorney’s Office.

⁴ Discretion to investigate certain allegations is not unique to COPA. Oakland’s Community Police Review Agency (CPRA) distinguishes its ‘mandated’ and ‘non-mandated’ complaints. See CPRA’s 2020 Annual Report, available at [CPRA-2020-ANNUAL-REPORT.pdf \(cao-94612.s3.amazonaws.com\)](https://cao-94612.s3.amazonaws.com/CPRA-2020-ANNUAL-REPORT.pdf).

involved fatal motor vehicle accidents like #21-0003780 in which the victim of the accident was not involved in the underlying law enforcement action. Moving forward, we will continue to work with BIA and CPD to improve process and clarify responsibilities and communications around fatal motor vehicle accidents.

Please find attached our specific responses to your three recommendations. Thank you again for shedding light and promoting inter-agency alignment on these important investigations.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Andrea Kersten', with a stylized flourish at the end.

Andrea Kersten
Chief Administrator
Civilian Office of Police Accountability

cc: Deborah Witzburg, Inspector General, OIG
Megan Carlson, Chief Investigator for Public Safety, OIG
Yolanda Talley, Chief, Bureau of Internal Affairs
Dana O'Malley, General Counsel, CPD
Traci Walker, Deputy Chief, Bureau of Internal Affairs
Elena Gottreich, Deputy Mayor of Public Safety
Alderman Chris Taliaferro, Chair of the Committee on Public Safety
Robin Murphy, General Counsel, COPA
Angela Snell, Assistant General Counsel, COPA

COPA Responses to OIG Recommendations
OIG Recommendation to Inform and Improve Future Investigations
Regarding Fatal Motor Vehicle Accidents

OIG Recommendation	COPA Response
<p>1. COPA and BIA should confer to address and resolve the apparent confusion regarding which investigating agency has jurisdiction over officer-involved fatal motor vehicle accidents where the victim of the accident was not involved in the underlying law enforcement action.</p>	<p>COPA agrees with this recommendation. COPA and BIA have conferred to confirm understanding of COPA’s jurisdiction in cases in officer-involved fatal motor vehicle accidents with an uninvolved victim to the underlying pursuit. Under current practice, upon jurisdictional assessment of such incidents, COPA will either retain or assign to BIA for investigation.</p>
<p>2. As necessary, BIA and COPA should work with the City Council’s Committee on Public Safety to update the MCC to align with PCRIA, and to clarify the circumstances under which COPA has jurisdiction to investigate fatal motor vehicle accidents.</p>	<p>COPA disagrees with this recommendation. COPA believes that its ordinance already provides COPA full jurisdiction over PCRIA “officer-involved” death investigations, as well as the discretion to investigate, or assign to BIA, fatal motor vehicle accidents in which the victim of the accident was not involved in the underlying law enforcement action.</p>
<p>3. COPA and BIA should update their written policies regarding officer-involved fatal motor vehicle accidents to align with relevant and applicable law.</p>	<p>COPA agrees with this recommendation. COPA’s Intake Policy (effective 6/14/21) includes a revised definition of ‘Major Case Incidents’ that is consistent with COPA’s jurisdiction under PCRIA and our municipal ordinance, and sets forth a clear procedure for keeping or assigning investigations to BIA. As part of an overall revision, COPA will also update its Rules and Regulations to further clarify COPA’s jurisdiction around officer-involved fatal motor vehicle accidents.</p>

Appendix C | CPD's Response to OIG



Lori E. Lightfoot
Mayor

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

Eric M. Carter
Interim Superintendent of Police

March 16, 2023

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

Re: Recommendations to Improve Future Investigations Regarding Fatal Motor Vehicle Accidents

Dear Deputy Inspector General Richardson,

The Department is in receipt of your December 29, 2022 letter containing recommendations to inform future Investigations Regarding Fatal Motor Vehicle Accidents. As a preliminary matter it should be noted that the Bureau of Internal Affairs contacted your office a few weeks ago to advise that Log# 2021-0003780, the catalyst for these recommendations, will be re-opened and investigated by BIA.

Three additional recommendations are made in the letter. First, OIG recommends that COPA and BIA confer to address and resolve the apparent confusion regarding which investigating agency has jurisdiction over officer-involved fatal motor vehicle accidents where the victim of the accident was not involved in the underlying law enforcement action. COPA and CPD have met and discussed both the COPA ordinance and the law as set forth under PCRIA and agree that in situations where the victim of the accident was not involved in the underlying law enforcement action BIA will conduct the investigation. Consistent with the OIG's third recommendation, CPD is in the course of updating the directive on the Traffic Review Board to confirm this understanding.

Finally, CPD respectfully disagrees that any update to the MCC is required to align with PCRIA, but is happy to engage in any conversations that COPA or the City Council's Committee on Public Safety deems necessary.

Thank you for your communication, and please feel free to contact the Office of Legal Affairs with any questions.

Sincerely,

A handwritten signature in black ink that reads "Matthew Burke".

Matthew Burke
Deputy Director
Legal Affairs Division



Lauren Buscato

Investigative Analyst, Public Safety

LaDonna Candia-Flanagan

Chief Investigative Analyst, Public Safety

The City of Chicago Office of Inspector General is an independent, nonpartisan oversight agency whose mission is to promote economy, efficiency, effectiveness, and integrity in the administration of programs and operations of city government.

OIG's authority to produce reports of its findings and recommendations is established in the City of Chicago Municipal Code §§ 2-56-030(d), -035(c), -110, -230, and -240.

For further information about this report, please contact the City of Chicago Office of Inspector General, 740 N. Sedgwick Ave., Suite 200, Chicago, IL 60654, or visit our website at igchicago.org.

Talk to Us

(833) TALK-2-IG/(833) 825-5244

talk2ig@igchicago.org

igchicago.org/talk2ig

OIG Business Office

(773) 478-7799

Cover photo courtesy of CanvaPro.
Alternate formats available upon request.

