

Audits of Complaints Against the Philadelphia Police Department

**AN ANALYSIS OF THE PHILADELPHIA
POLICE DEPARTMENT'S INTERNAL
AFFAIRS INVESTIGATIONS FROM
MARCH – JUNE 2022**

Table of Contents

03	I. Executive Summary
04	II. Background on Complaints Against Police
05	III. Methodology and Limitations
07	IV. Audit Results
24	V. Moving Forward



Executive Summary

Philadelphia Police Department misconduct investigations have not been subject to consistent external reviews before. At times, the public does not trust the investigative process and often expresses concern that officers investigating other officers may not conduct fair investigations.

Over the past year and a half, the Citizens Police Oversight Commission (CPOC)'s Audit and Monitoring Unit has been conducting a continuous assessment of completed police misconduct investigations by the Philadelphia Police Department's (PPD) Internal Affairs Division (IAD). Through reviewing these cases and recommending improvements on a consistent basis, CPOC hopes to help build more public understanding and trust in the process.

Complaint audits provide rich data that could lead to various outcomes, such as understanding which neighborhoods experience or report misconduct most frequently and what that could mean for PPD operations, as well as looking for ways to make IAD investigations more consistent so that residents and officers alike can benefit from additional procedural fairness.

This first report is intended to be informative and an example of the work of CPOC's Auditing and Monitoring Unit, with no recommendations offered at this time. CPOC may offer specific recommendations for improvements to IAD's investigative processes in the future once more information is gathered through additional audits completed.

According to CPOC's assessments, a number of parts of IAD investigations are going very well. These include clear investigative reports, investigators interviewing all PPD witnesses involved in complaints, and generally logical findings. Areas of concern for further review include cases which miss significant allegations in the investigation's conclusion, as well as the lengthiness of the investigative process at IAD.

The analyses contained here focus on a sample of 250 CPOC-conducted audits of IAD investigations of CAPs. These investigations were received by CPOC between March and June 2022.



Background on Complaints Against Police

Complaints made by residents against PPD officers are called Complaints Against Police (CAPs). CAPs are currently investigated solely by Internal Affairs (IAD), which is a unit housed within PPD and is comprised of investigators who are sworn PPD personnel. Every month, IAD forwards CPOC recently completed CAP investigations. CPOC does not receive internal investigations.¹ CPOC receives a Police Commissioner memo (PC memo) from PPD for each completed investigation. A PC memo is a comprehensive report that details the investigative process and outcome of each Complaint Against Police. PC memos are comprised of descriptions of the initial complaint, all investigative steps taken, interview summaries, summaries of relevant documentation, and the investigation's conclusions.

The outcome of each investigation is critical. If the investigator did not sustain any allegations against

an officer, the process ends. If any allegations were sustained through the investigation, the case moves through the Police Board of Inquiry (PBI) discipline process, including the Charging Unit and a PBI Hearing when necessary.² When the investigation and any subsequent disciplinary processes are complete, CPOC's Auditing Unit receives the PC memos for auditing.

CPOC's legislation authorizes the agency to conduct individual investigations into citizen complaints of police misconduct, conduct audits, produce policy reports, and publish data. Until CPOC is fully staffed and has developed the necessary processes to carry out the investigative piece of the legislation, CPOC's audits of IAD misconduct investigations provide an effective oversight tool to improve the accountability functions that are already in place at PPD.

¹Internal investigations are defined in PPD Office of Professional Responsibility (OPR) Policy #10 as "complaints originating from a source other than a citizen or citizens' group; any allegation of corruption or serious police misconduct received; but not limited to:

- Requests or information received by anonymous sources or by Police Department personnel alleging corruption, misconduct, or departmental violations.
- Information alleging police misconduct received from other law enforcement or criminal justice agencies, e.g. FBI, District Attorney's Office, other police departments, etc.
- Anonymous information alleging corruption, misconduct, or departmental violations."

²For more information about the PBI Charging Unit and PBI Hearings, see CPOC's follow-up report on the PBI Collaborative Reform process.

Methodology and Limitations

CPOC developed a process for reviewing IAD investigations into CAPs following practices in use by other federal and municipal governments oversight bodies. CPOC developed standard criteria and questions to aid in reviews of PC memos to ensure that all cases are reviewed the same way and that CPOC collects information consistently. The audits record quantitative aspects of investigations, such as whether investigations were completed within 90 days, as well as more qualitative standards, such as whether the findings matched the evidence presented in the PC memo. The standards for review were developed using PPD Office of Professional Responsibility (OPR) policies, standards for peer review of closed cases developed by the Council of Inspectors General on Integrity and Efficiency, and a similar auditing tool used by the Chicago Office of the Inspector General (Appendix 1). For more in-depth information about CPOC's auditing process, please read the [CPOC Auditing Manual](#) (Appendix 2).

The auditing team uses a series of questions to systematically evaluate the investigation described in each PC memo for quality, thoroughness, and objectivity. These questions provide space for auditors to provide nuanced investigative critiques and highlight anything that may have affected investigative outcomes, such as missing allegations against an officer or discrepancies between the evidence presented and the investigation's conclusion. The questions are broken into four sections: Timeliness, Professional Standards of Care, Evidence Collection/Analysis & Interviews, and Conclusions & Case Disposition. For the full list of auditing questions, please see Appendix 3.

For the first batch of audits, which is the focus of this report, the team audited every PC memo that IAD forwarded over a six-month period.³ Given staff constraints and best practices in the field, the unit will review a smaller selection of cases going forward: this includes all cases that involve allegations related to criminal conduct, sexual misconduct, physical abuse, 4th Amendment violations, civil rights violations, and falsification—as well as a random sample of all other types of cases when capacity allows.

³This analysis does not include the first two months of auditing data, as those months served as a true initial testing period of CPOC's auditing process. The final sample in this analysis includes 4 months of completed audits, which is approximately 250 individual IAD cases. These cases were received at CPOC March–June 2022.



CPOC receives from PPD the PC memo, but not the full case file, for every investigation audited. The case file for an investigation includes interview transcripts and other documentation. CPOC recognizes that the unit's resulting analyses are based on the final report and not the complete contents of the case. For example, an investigator may have asked all pertinent questions in an interview but did not include all of the information from the interview in the PC memo. The PC memo should be as complete as possible – but an incomplete PC memo may not mean the investigation was incomplete.

Though the Auditing and Monitoring Unit made efforts to ensure the analyses were consistent and thorough, as this was the first batch of PC memo audited by CPOC, this initial analysis served as a learning process. The unit has since streamlined processes, learned how to better collect data, and clarified the auditing questions used to assess PC memos. CPOC intends to report more regularly on PC memo audits, and this batch was an important first step in learning how to assess PC memos as well as develop a clear internal process.

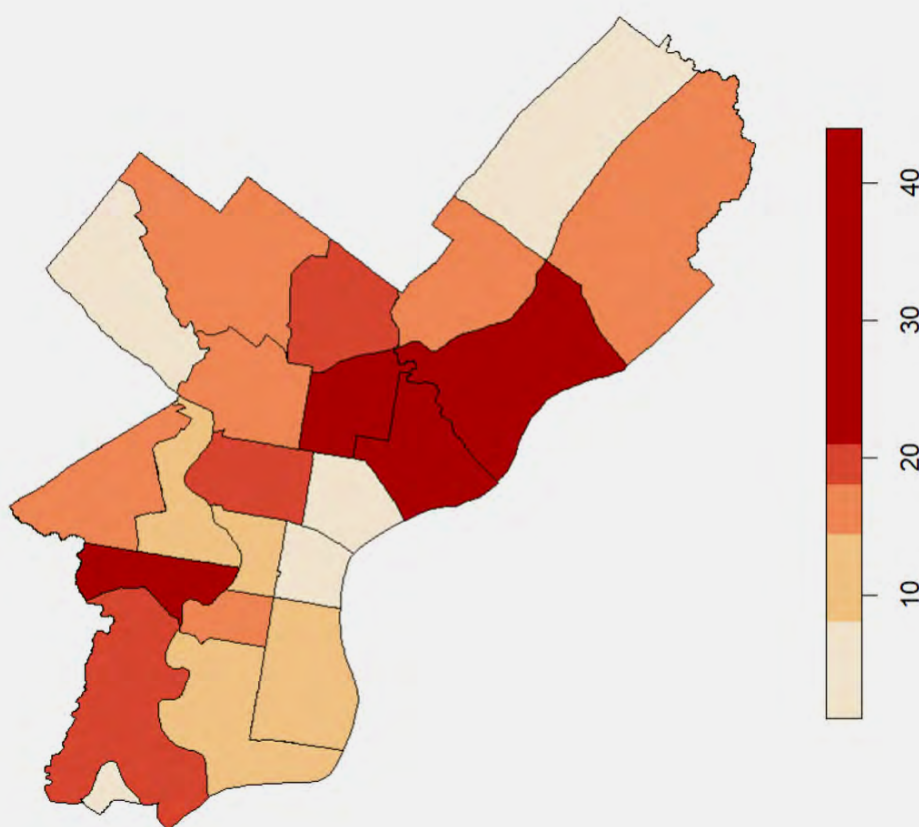
This four-month sample of IAD completed CAP investigations is not representative of the entire body of internal affairs investigations within PPD. The sample of cases that are analyzed in this report are the Internal Affairs investigations of CAPs that were completed between March and June of 2022 – a snapshot, but not a representative sample. Investigations that were ongoing during that four-month window were not included. Therefore, the Auditing Unit can draw only limited conclusions from this dataset.

Nonetheless, the sample serves as a useful snapshot, allowing for CPOC to identify patterns, trends, and potential areas of improvement within recently completed IAD investigations. Furthermore, the insights derived from the sample can guide targeted interventions, policy adjustments, and procedural enhancements within a more immediate timeframe. These actions contribute to proactive measures that can be implemented swiftly, as CPOC continues conducting CAP audits over a longer time period.

Audit Results: Misconduct Allegations

This map of Philadelphia portrays the concentrations of misconduct allegations according to police districts across the city. As shown, the districts with the highest concentrations of misconduct allegations from the sample were the 15th, 24th, 25th, and 18th Districts. Depending on the incident(s), one complaint can contain multiple types of misconduct allegations.

DISTRICT LEVEL MISCONDUCT ALLEGATIONS



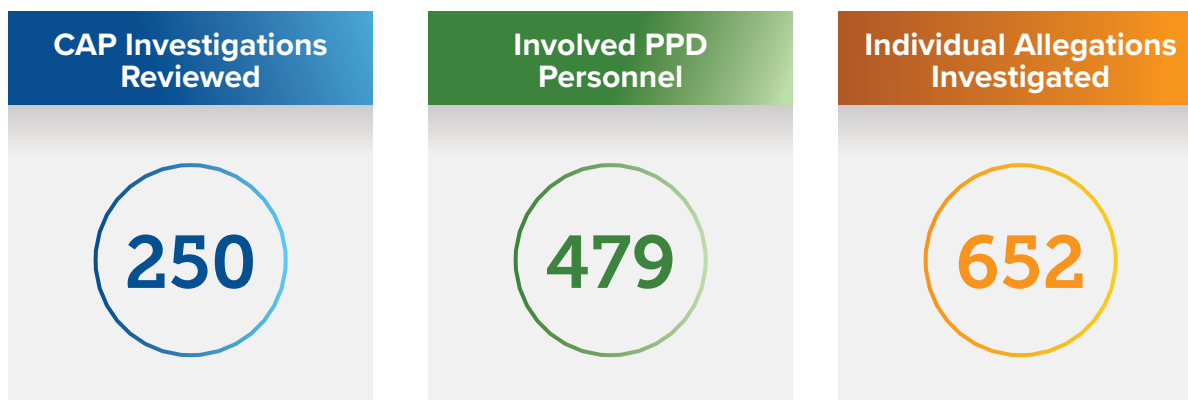
The Philadelphia Police Department categorizes allegations of misconduct into 15 different classifications that broadly capture the type of misconduct present in a Complaint Against Police.

The 250 IAD investigations from our sample identified 479 police officers⁴ and assessed the evidence around 652 distinct misconduct allegations. Of the total 652 allegations, roughly 60% were related to Departmental Violations and Lack of Service allegations. The chart on page 8 displays the full breakdown of misconduct allegations from the sample.

⁴Note: occasionally IAD indicated that there was not enough information provided by the complainant to be to identify an involved officer or officers.

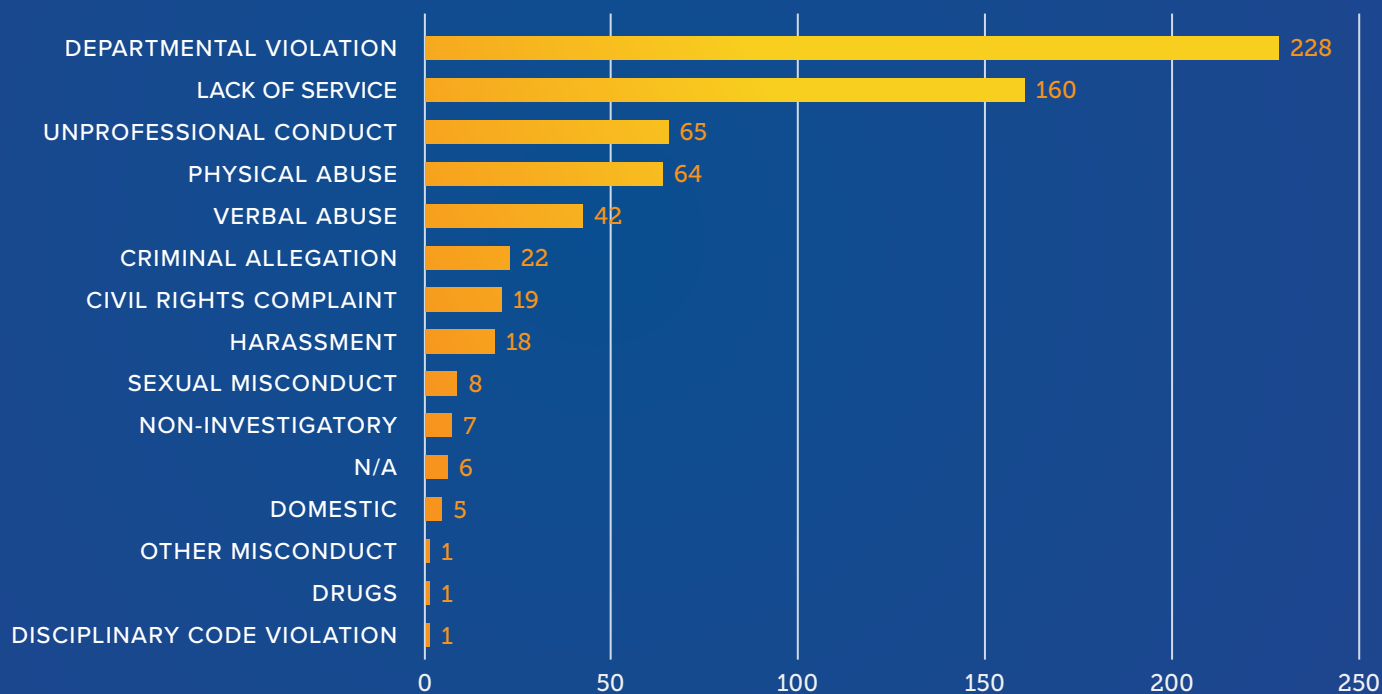
CAP AUDITING AT A GLANCE

For CAP investigations received at CPOC between March 2022 – June 2022.



**IAD also conducts internal investigations, which arise from supervisors reporting misconduct, administrative issues, or conflicts between officers. CPOC does not audit internal investigations.*

TOTAL ALLEGATION BREAKDOWN



Audit Results: Investigation Outcomes

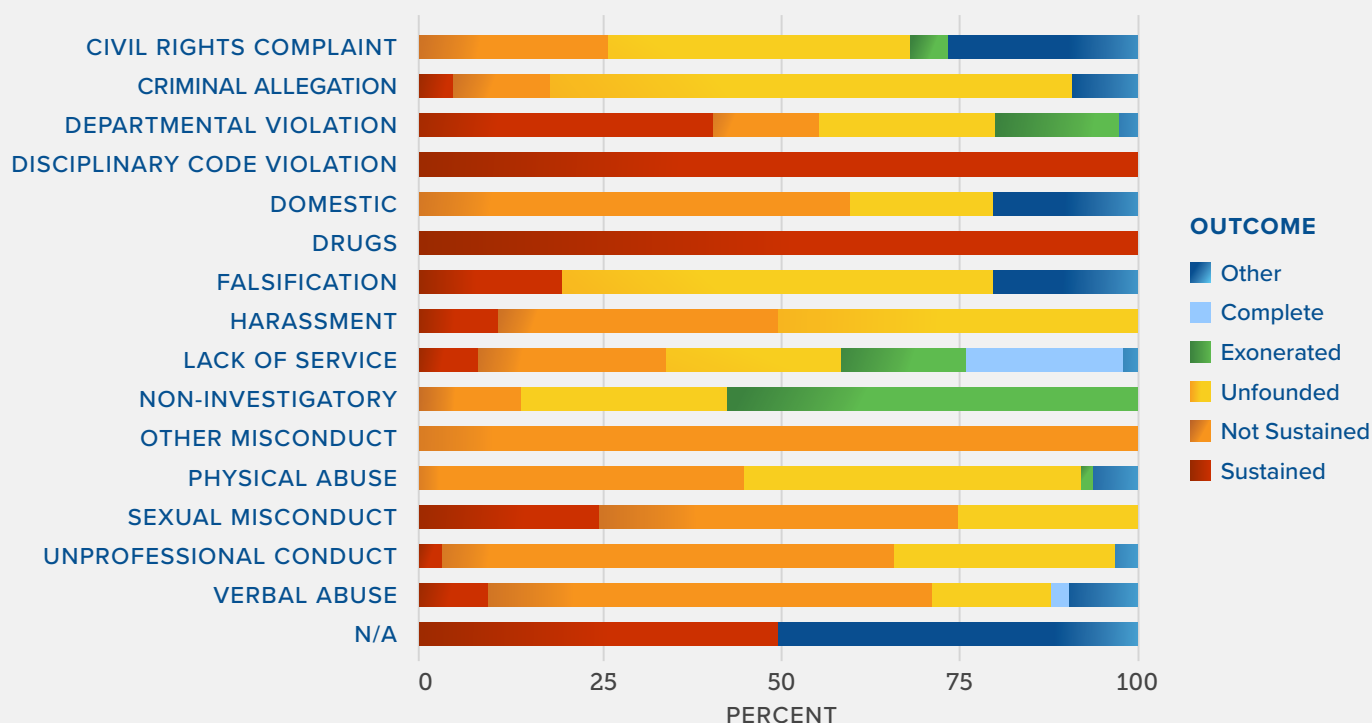
When an IAD investigation is complete, the investigator determines the appropriate findings for each allegation in the complaint and provides an explanation for each finding based on the evidence collected. IAD policy states investigators must address all allegations in the findings. Any allegations missed by investigators will not be considered for disciplinary action or placed on the officer's record.

The standard of proof for administrative investigations is "preponderance of the evidence." Preponderance of the evidence is met, if, considering all the evidence, the allegation is more likely to have occurred than not. Preponderance of the evidence is sometimes defined as "51%," or "50% and a feather."

For each allegation in the complaint, the investigator is tasked with deciding the findings based on the preponderance of the evidence standard. There are several possible findings for each allegation. The most common are: "sustained," "not sustained," "unfounded," "exonerated," "withdrawn," and "complete." The full list of investigative outcomes from OPR Policy #8 is included as Appendix 4 to this report.

The below chart breaks down the variation in outcomes among the different allegation classifications.

PPD IAD OUTCOMES BY ALLEGATION



1. Sustained:

The investigation demonstrated that the incident/infraction occurred, and the action(s) alleged in the complaint were inconsistent with Departmental policy, directives, orders, and/or applicable local, state, or federal laws.

2. Not sustained:

The investigation could neither prove nor disprove whether the incident/infraction occurred.

- a. Example: a member of the public filed a complaint and alleged that an officer verbally abused them. The officer denied verbally abusing the complainant in their interview, and without any independent evidence—such as body camera footage, external surveillance footage, or independent witness testimony—there is no way for the investigator to prove whether the alleged conduct occurred. A “not sustained” outcome for an allegation of verbal abuse would be applied in this example.

3. Unfounded:

The investigation revealed that the incident/infraction did not occur.

4. Exonerated:

The investigation revealed through a preponderance of the evidence that the officer acted properly. The act(s) alleged did take place but were lawful, proper, and in accordance with Departmental policy.

- a. Example: a member of the public filed a complaint and alleged that an officer improperly arrested them. The investigation found that the complainant committed specific violations for which the officer arrested them, and so while the officer did arrest the complainant, it was determined to be lawful. An “exonerated” outcome for an allegation of improper arrest would be applied in this example.

5. Withdrawn:

The complainant decided to withdraw their complaint of their own free will.

6. Complete:

A first complaint of Lack of Service or Verbal Abuse for an officer is closed out after a Divisional Inspector conducts an investigation and gives the officer(s) advice, instructions, and other useful feedback regarding the complaint and the officer(s) actual or perceived behavior, demeanor, or conduct to assist the officer in avoiding similar complaints in the future.



Referring back to the chart on page 9, allegations of falsification had zero “not sustained” findings. This indicates that investigators were able to come to findings of fact to adjudicate these types of cases. Falsification allegations involve an officer knowingly reporting false information in the form of official documents, statements, sick notes, and injury paperwork. Since falsification is a serious allegation related to integrity, it is encouraging to see that investigators were able to come to hard conclusions. Additionally, allegations with the next-lowest percentages of “not sustained” outcomes were criminal allegations (13.6%), departmental violations (14.9%), lack of service (26.2%), and non-investigatory cases (14.3%).

On the other hand, allegations with the highest percentages of “not sustained” outcomes were domestic abuse (60%), verbal abuse (61.9%), unprofessional conduct (63.1%), and other misconduct (100%). Nearly half of physical abuse allegations (45%) also resulted in “not-sustained” outcomes.

Some allegations are often characterized by a lack of documentary or audiovisual evidence, making it difficult to determine what happened solely based on contradictory statements. Thus, allegations such as verbal abuse have a high percentage of “not sustained” outcomes. However, categories such as domestic abuse and physical abuse⁵ incidents are serious and high rates of not sustained allegations in these categories may warrant further examination. Likewise, it may be worth digging into the unprofessional conduct fact-finding processes to determine what caused such cases to result in so many “not sustained” conclusions.

⁵ Very serious allegations of physical abuse made by citizens are often forwarded to a specialized force investigations team at IAD for investigation. These cases are then classified as “internals” and CPOC is not able to routinely review them. CPOC is currently developing a larger project about use of force investigations at PPD so that CPOC can shed more light on these types of allegations and investigations.

⁶ N/A means that the investigator listed the allegation in a way that did not match IAD’s official list of allegations. This made it difficult for CPOC to properly classify the allegation in our data. There were only 7 allegations in this category.

The allegations with the highest percentages of sustained outcomes were drugs (100%), disciplinary code violations (100%), departmental violations (40.7%), and N/A (50%).⁶ The allegations with the lowest percentages of sustained outcomes were criminal allegations (4.5%), unprofessional conduct (3.1%), and lack of service (8.1%). Physical abuse allegations and civil rights complaints had no sustained outcomes.

Sustaining zero physical abuse or civil rights allegations over a four-month period of completed investigations does raise some flags. IAD investigators’ methods of adjudicating civil rights complaints are inconsistent and unclear; some investigators compare the rates of stops in the complainant’s district to the racial breakdowns of that district, whereas other investigators designate a civil rights complaint as unfounded because the complainant committed an infraction that justified the stop in question. As CPOC continues to audit complaints against police, the Auditing Unit will continue to observe trends in civil rights investigation procedures—and suggest best practices based on other investigation units across the country. CPOC also intends to continue to audit all CAPs that mention physical abuse allegations to be sure these findings are appropriate.



Audit Section: Timeliness

The timeliness audit section logs the length of each Internal Affairs investigation into a Complaint Against Police (CAP). The Mayor of Philadelphia's Executive Order 05-17 (Appendix 5) establishes a timeline of 90 days for completing such investigations. The investigation period runs from the date the complaint was received to the date of completion listed on the PC memo; investigation time spans can be calculated using dates entered in the first part of the audit.

Timelines help identify where cases stall. Investigations can be lengthy, and sometimes there are clear explanations for why investigations need more time to be completed. When those explanations are not clear, audits may help identify where in the investigative process delays occur most often to help identify solutions.

As stated in PPD's Office of Professional Responsibility (OPR) Policy 21,⁷ if an investigation exceeds the 90-day limit for investigations as mandated in the Mayor's Executive Order 05-17, a notation will be made in the first paragraph of the PC memo's investigative analysis section. This sentence will state that all parties have been notified of the delay and will explain the reason for the delay.

Despite these policies, the data shows that most investigations took much longer than the institutionally mandated timelines. Just over a quarter of the investigations in this sample (25.62%) were completed within the required 90-day timeline – meaning roughly 75% of our sampled investigations are out of compliance with this policy. The average length of investigations was roughly 230 days (median length was roughly 155 days). Investigations ranged from just 13 days to 1,618

RESULTS OF TIMELINESS QUESTIONS:

- Only 25.6% of investigations were completed within 90 Days.
- 25% of investigations did not include an explanation for this delay, as required by IAD policy.
- 75.7% of completed investigations were signed by an IAD inspector within 30 days as required by IAD policy.
- In 39% of cases, significant gaps in the investigation such as delays between interviews or delays in closing the case were not explained.
- In 35% of cases, interviews were not conducted in a timely manner.
- PC memos were completed in a timely manner in just over half of cases (58.2%).

⁷ Office of Professional Responsibility policies are internal to the Philadelphia Police Department and have been shared with CPOC staff for inter-agency transparency and accountability. These policies are not available for publication to the public.

days (nearly 4.5 years). While more than 4 years is an extreme outlier within this sample, roughly 1 in 6 of the investigations we analyzed (16.4%) took longer than 400 days to complete.

Further, while PPD policy requires all investigations beyond 90 days to include an explanation in the final PC memo, a quarter of cases that took longer than 90 days to finish lacked any explanation in their memo. It is a suggested best practice for investigators to document and explain any significant gaps in their investigative activities related to their workload. However, roughly 39% of cases that experienced significant gaps in progress failed to document these periods. These delays in investigative progress can negatively impact the quality and outcome of the IAD process.

For example, roughly one-third (35%) of cases did not conduct witness and complainant/victim interviews in a timely manner. IAD does not have specific timeframes for when they are required to conduct civilian interviews for CAPs, but interviewing witnesses as close to the date of the incident as possible will allow for better recall. While there are instances when delays in interviews are beyond the control of the investigator, that did not always appear to be the case, or was not explained in the PC memo. Delays throughout the investigation process, particularly related to conducting witness and complainant/victim interviews, could impact investigators' ability to make the most sound and accurate conclusions possible.

About three-quarters of investigations (75.73%) were signed off by an inspector within 30 days as required by PPD policy. CPOC noted instances when there were significant gaps between the final interview of an investigation and the completion of the PC memo with no explanation as to why. Less than six out of every ten investigations (58.23%) resulted in a complete PC memo in a timely manner. This is perhaps indicative of a lengthy review and editing process from supervisors at IAD.

Investigations can be unpredictable and there are many reasons why an investigation can become very lengthy. Reasons for delays in investigations or delays in completing PC memos should be clearly stated in PC memos so that solutions can be found if possible. It is important to note that IAD has changed their policy recently – the deadline for conducting investigations is now 90 business days, as opposed to 90 calendar days, as it was during the sample period. Future analyses will examine compliance with this new timeline.



Audit Section: Professional Standard of Care

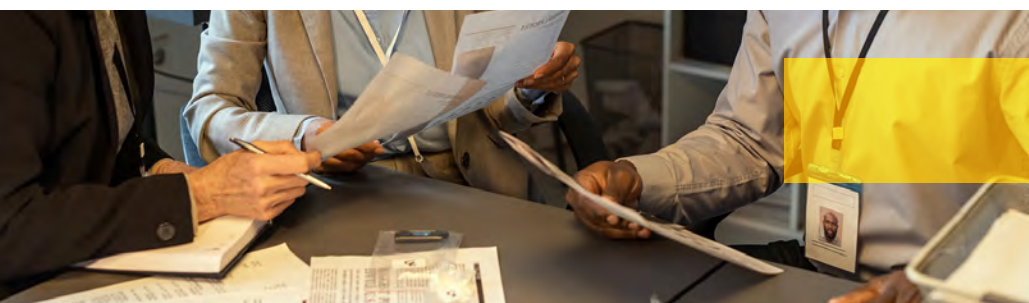
The goal of this section is to determine if the investigator used due diligence to complete the investigation thoroughly, objectively, and fairly, based on department standards and best practices.

RESULTS OF PROFESSIONAL STANDARD OF CARE QUESTIONS:

- The white paper classification and subclassifications accurately fit the substance of the original complaint **94.1%** of the time.
- The investigator made required attempts to identify, locate, and contact all civilian/non-PPD parties, including all potential witnesses, **81.2%** of the time.
- In **90.4%** of cases, the investigator exhausted all resources to identify the police officers accused of misconduct.
- In **73.3%** of cases, the investigator adequately identified and followed up on any new leads developed in the investigation.
- **99.2%** of PC memos were accurate, concise, and logically organized.
- The PC memos clearly articulated the incident that occurred and gave the reader a clear picture of what happened in **94.8%** of cases.
- **12.5%** of investigations included language that suggested a lack of neutrality.



These questions evaluate the investigator's thoroughness and objectivity at critical checkpoints in the investigative process, such as when contacting complainants/witnesses or describing the incident which prompted the complaint. This section also gathers data about how IAD staff classify the complaint on the white paper. Staff in the IAD intake center are required to select the most serious allegation as the white paper classification; as this classification does not change during the investigation and eventually gets included with PPD's public complaint data, the accuracy of this classification is important.



Results from this sample of case audits demonstrate that, for white paper incident classifications, the selected classification most accurately fit the substance of the complaint the vast majority of the time (94.2%). Almost all PC memos that were associated with investigations in this sample (99.2%) were accurate, clear, complete, concise, and logically organized. In nearly all cases (90.4%), the IAD investigator exhausted all available resources to identify the police officers accused of misconduct based on the allegations contained in the complaint. Only approximately one out of every twenty (5.2%) of the sampled IAD cases concluded with a PC memo that failed to clearly articulate the incident alleged.

However, nearly 1/5 (19.8%) of investigations from this sample were cases where the IAD investigator failed to make the required attempts to identify, locate, and contact all civilian parties, including potential witnesses. According to OPR Policy 28, "contact attempts will include e-mail, at least one documented telephone call, a 75-48 message with DC numbers, when location is within Philadelphia... as well as IAD form letters sent by Certified and 1st Class U.S. Mail."

Regarding cases where new leads emerged during the course of the investigation, in roughly one out of four applicable investigations (26.7%), the investigator did not make all attempts necessary to identify and pursue leads. In one out of eight cases (12.5%), CPOC auditors noted that there was possible bias observed within the investigation.

Biases in investigations often manifest in the language used by an investigator to describe the details of an incident, or in the weighing of officer testimony over the testimony from a complainant or witness.

For example, in one case, a complainant alleged he was stopped, hit, and called racial slurs by an officer. The verbal abuse and physical abuse allegations on the conclusions page were made “unfounded,” even though the body worn camera footage referenced in the investigation begins after the complainant was already secured. The entire police encounter is not shown, and the involved officer was even cited for turning the camera on late, yet these allegations were unfounded. In the absence of any evidence to support the complainant’s allegations, the allegations should have been listed as “not sustained.” The investigator’s evidentiary analysis in this case was also biased in favor of the accused officer. Additionally, the investigator noted in the conclusion that the complainant was verbally abusive towards officers as he left, which is irrelevant to the allegations made and serves only to cast the civilian in a negative light. While it may give context, this statement can also be read as attempting to justify an inappropriate finding. CPOC auditors have noticed other instances in which investigators cite complainants’ actions to minimize officers’ behavior.

In another case, an anonymous complainant alleged that an officer took time off as sick leave so that he could find out the answers to a promotional exam, and that he was later overheard bragging about how he was able to cheat on the exam. After summarizing interviews with officers who denied speaking with this officer about the exam, and summarizing an interview with the accused officer who denied the allegations, the investigator resolved the allegation as “unfounded.” The outcome of this investigation should have been “not sustained.” There was not enough independent evidence to disprove the allegation. The investigator valued the officer interviews, including the accused officer statement, more than the statement of the complainant. This suggests to CPOC that there may have been bias present in this investigative analysis.



Audit Question Results: Evidence Collection/ Analysis and Interviews

This section assesses the evidence collected and the investigator's examination of evidence, as well as the investigator's thoroughness of interviews and interview summaries.

It is critical for auditors to determine whether an investigator exhausted all possible avenues for acquiring evidence in an investigation. The quality and quantity of evidence collected by the investigator determines the extent to which allegations can be adjudicated. For example, a street camera that captures an incident can provide an objective account and prove/disprove allegations made by a complainant; if an investigator never checks for such video footage or waits beyond the video retention period and the video no longer exists, it becomes harder to reach a concrete conclusion.

Equally important to the outcome of an IAD investigation is the quality and quantity of interviews conducted by the investigator. Assessing the interview summaries provided in PC memos can help identify patterns of gaps in questioning.

EVIDENCE COLLECTION/ ANALYSIS AND INTERVIEWS QUESTIONS:

- The PC memo and case index indicated that the investigator identified, located, and collected all foreseeable evidence related to the investigation in 79.7% of cases.
- The PC memo indicated that the investigator checked for the existence of all potential audio recordings and video recordings, including BWCs, in 79.9% of cases.
- In 86.6% of cases, the investigator requested audio and/or video evidence within an appropriate timeframe (BWC, external surveillance footage, etc.).
- In 95.1% of cases, the investigator interviewed all PPD witnesses or explained why PPD witnesses were not interviewed.
- When applicable, the investigator appropriately considered the independence of witnesses and their testimony 92.9% of the time.
- 1.9% of PC memos indicated that any officers were re-interviewed.
- The officer interview summaries addressed all of the allegations raised by the complainant/victims in 93.8% of cases.
- The investigator obtained enough information to prove or disprove each individual allegation present in 62% of cases.
- In 94.7% of cases, the analysis of the evidence was thorough and inclusive of all relevant documents, interviews, and other information mentioned elsewhere in the PC memo.

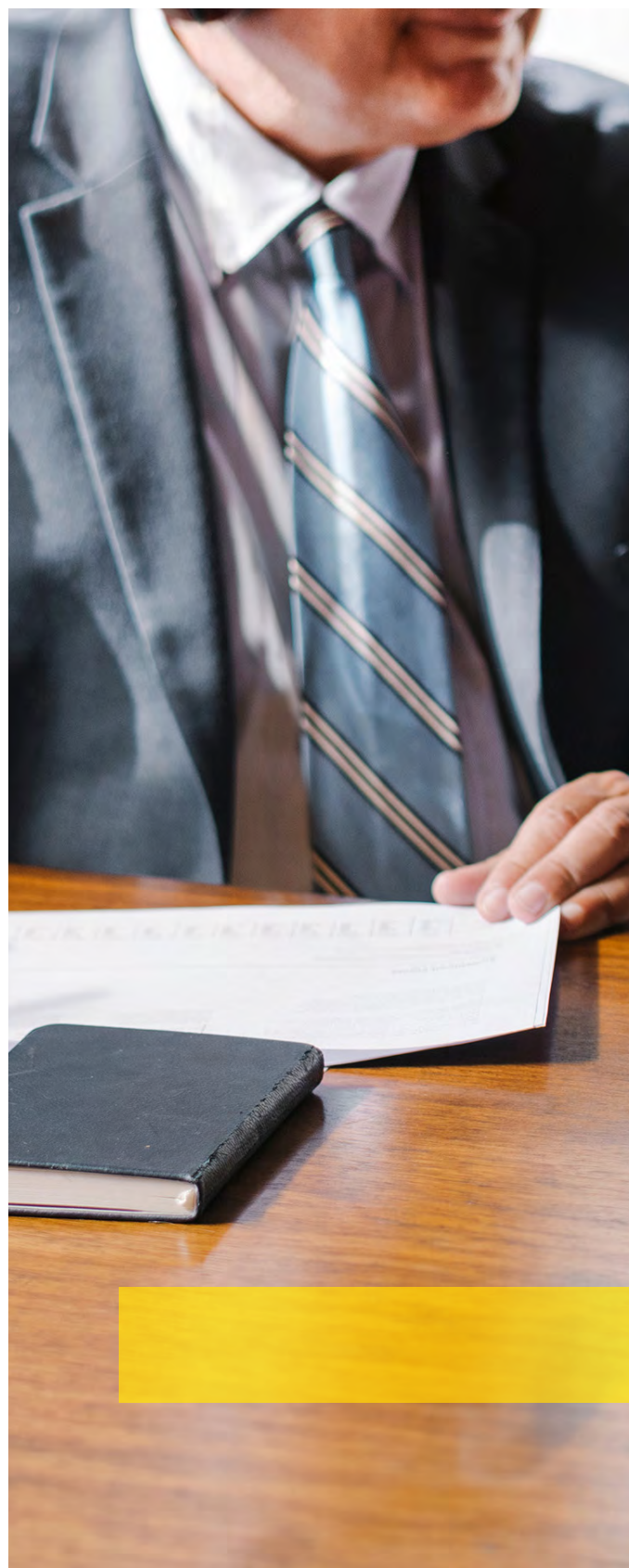


Data from this section shows that among the sample of cases audited, investigators interviewed all PPD witnesses or explained why PPD witnesses were not interviewed nearly all (95.1%) of the time. Additionally, the investigator appropriately considered the independence of witnesses and their testimony roughly 9 out of 10 (92.9%) times. The independence of witnesses can be critical when a witness is connected to the complainant in some way, such as a relative or friend. On a case-by-case basis, it is important for investigators to weigh the independence/impartiality of a witness in relation to the quality of testimony provided.

There were several areas in evidence collection and analysis where auditors pinpointed room for improvement. Most notably, auditors found that investigators obtained enough information to prove or disprove each individual allegation present only about 6 out of 10 (62%) times. Although this percentage is low, CPOC recognizes that even after exhausting all avenues for obtaining evidence it can be impossible for an investigator to prove/disprove an allegation in some cases. It also became clear that this question was at times redundant and has been removed from auditing questions that will be used for future analyses.

In about one fifth (20.3%) of cases, auditors found that the investigator did not identify, locate, and collect all foreseeable evidence related to the investigation. Additionally, in one fifth (20.1%) of cases, the investigator did not indicate in the PC memo whether they checked for the existence of audio recordings and video recordings, including BWCs.⁸ When investigators did check for audio and/or video evidence, in a little over one tenth of these cases (13.4%), the investigator did not request such evidence within an appropriate timeframe, meaning that evidence was lost. It is important to acknowledge that if complaints are filed weeks or months after an incident occurs, it can be more difficult to obtain video footage.

Investigators at Internal Affairs should ensure that all possible pieces of evidence are obtained by being persistent and consistent during the fact-finding component of their investigations.



⁸ These questions related to checking for the existence of evidence and audio/video recordings have been tweaked to ensure clarity of results in future analyses.

Audit Section: Conclusions and Case Disposition

The final group of questions assesses the conclusions of the PC memo to ensure that the findings are supported by the evidence presented, and that they are fair and justified.

This section is particularly important; it gets at the heart of the investigation. Standard Operating Procedure 21 for IAD requires investigators to address all allegations in the original complaint. If the investigation does not apply and analyze all allegations present, an officer may not be held accountable for a policy violation. That officer's discipline record is then incomplete, which prevents PPD from tracking repeat offenses.

Looking for missing allegations is a critical part of auditing. Auditors identify and record the specific allegations that were present in the PC memo but ultimately were not considered or listed against officers in the investigative conclusions.

RESULTS OF CONCLUSIONS AND CASE DISPOSITION QUESTIONS:

- In 91.6% of cases, the allegation findings on the conclusions page were logical and reasonable based on the analysis of the evidence presented in the PC memo.
- 51.1% of PC memos included a clear and concise statement of applicable law, rule, or regulation that was allegedly violated or formed the basis for the investigation.
- In 77.5% of cases, all allegations identified during the course of the investigation were addressed on the conclusions page.
- 34.4% of investigations sustained only administrative violations.



Data analysis from this section determined that in about 9 out of 10 (91.6%) of cases, allegation findings on the conclusions page were logical and reasonable based on the analysis of evidence presented. CPOC hopes to see this number as close to 100% as possible, as this question is critical to examining the quality of analysis present in PC memos. Proper findings are extremely important and are the deciding factor in determining if an officer should be held accountable if needed.

In approximately half (51.1%) of cases, the PC memo included a clear and concise statement of an applicable law, rule, or regulation that was allegedly violated or formed the basis for the investigation. Including a rule is not required by policy but is best practice, particularly because it makes the subsequent Charging Unit process easier and the discipline charges clearer.

Of cases that had sustained allegations, about a third sustained only administrative violations. About a third (34.4%) of investigations sustained only administrative violations. Administrative violations

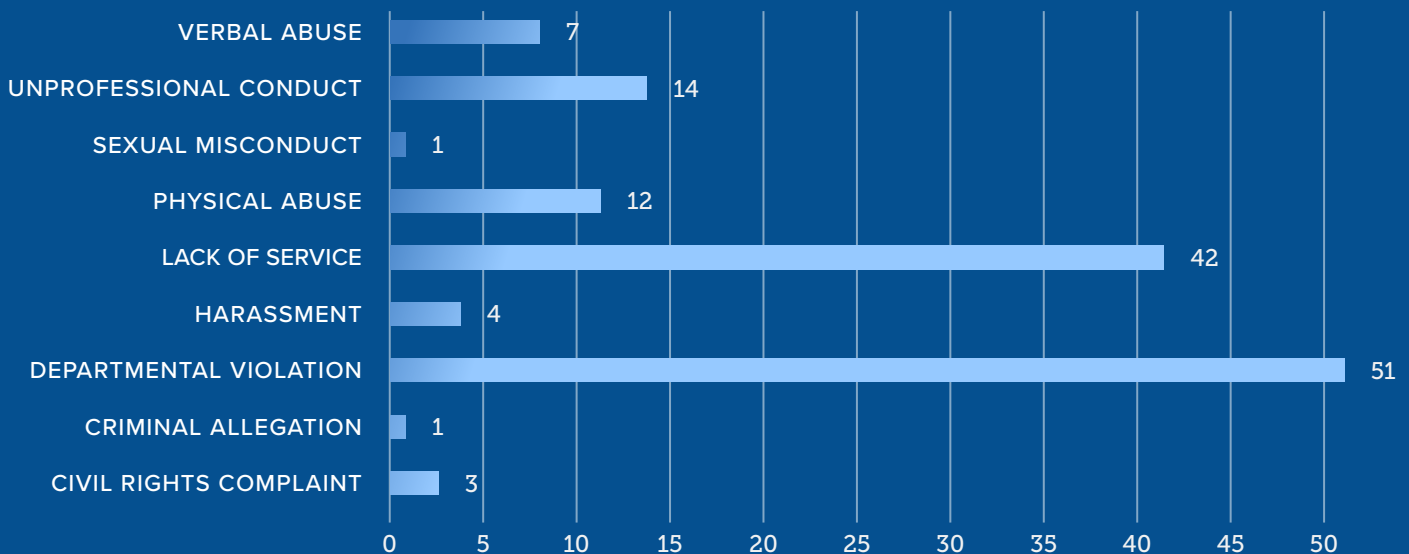
are those related to paperwork, BWC violations, or radio usage (generally not raised by a complainant). In these instances, none of the complainant's original allegations are sustained—but a small administrative violation is sustained against an officer. While it depends on the case and the legitimacy of the complaint made, this is an important statistic to note because it shows what type of allegations are ending up with sustained findings.

In about one fifth (22.5%) of cases, not every allegation identified during the investigation was addressed as a formal allegation on the conclusions page. This rate of missing allegations is a cause for concern, particularly when tracking officers' histories of misconduct.

MISSING ALLEGATIONS

There was a total of 135 missing misconduct allegations identified within this current sample of investigations. More than two thirds of these missing allegations were related to departmental violations (37.5%) and situations where officers provided a lack of service (30.9%).

TOTAL MISSING ALLEGATION BREAKDOWN



While far fewer in number, CPOC auditors identified a single (1) allegation of sexual misconduct, a single criminal allegation, and 12 allegations of physical abuse that were not captured during the IAD investigation and were, therefore, not investigated or properly recorded for accused officers.

In the complaint against police that missed a sexual misconduct allegation, the complainant alleged that during a frisk, a police officer grabbed his genitals. In the conclusions page of the PC memo, the accused officer had a “Physical Abuse-Forcibly Grabbed” allegation listed against them, but not a separate allegation for the sexual component. There should have been a “Sexual Crime/Misconduct-Indecent Contact During Search” allegation listed as well.

In the complaint against police that missed a criminal allegation, the complainant alleged that she saw an officer who walked from behind a dumpster with his hands in his pants; she saw him adjust himself, zip up his pants, and return to his vehicle. The complainant stated that though she did not personally observe the officer urinate, she assumed he had just publicly urinated based on his behavior. The investigator for this complaint used an “Unprofessional Conduct—Rude/Dismissive Behavior” allegation against the officer instead of “Criminal Allegation—Disorderly Conduct.” As public urination in Philadelphia is a criminal violation,⁹ this allegation should have been classified similarly by IAD.

As an example of a missing physical abuse allegation, a complaint in the sample included a civilian who alleged that an officer pointed his gun at him during a foot pursuit. This allegation, “Physical Abuse—Threatened with Firearm,” was not included against the officer in the conclusions section of the PC memo.

If allegations are missing from an investigation’s conclusion, the allegation is not analyzed and would also be missing from the accused officer’s disciplinary

history. An incomplete disciplinary history can prevent an officer from receiving proper discipline in the future. If an officer commits the same offense but the prior offense is not listed in their history, the officer will be disciplined only as a first-time offender. It also poses an obstacle to determining when an officer’s behavior was simply a mistake versus reflective of an ongoing course of conduct.

It is crucial that all allegations made by complainants, as well as other violations uncovered during an investigation, are included in the final report of investigation. Regardless of the findings of the allegations, including each one ensures the investigative process is consistent for every case that IAD handles.



⁹https://codelibrary.amlegal.com/codes/philadelphia/latest/philadelphia_pa/0-0-0-282223

Audit Section: 4th Amendment/Terry Stops

The final group of auditing questions for this first sample assesses only the PC memos that included allegations related to pedestrian or vehicle stops, frisks, and searches. Approximately one fifth (20%) of the sample included such allegations.

The practice of stop and frisk is perennially relevant in police oversight – this practice is the mechanism by which many individuals interact with police and is also an area with the potential for misconduct to occur. An individual's 4th Amendment right to be free from unreasonable search and seizure is at stake during stop and frisk encounters.

Short of filing a lawsuit, a complaint against police is the only recourse for people who were stopped unjustly and not arrested. Further, patterns of unjust stops are noticed in communities and only contribute to a larger lack of trust in police. It is therefore imperative that complaints related to 4th Amendment issues are investigated consistently and analyzed methodically so that officers who conduct improper stops, frisks, and searches are held accountable.

RESULTS OF 4TH AMENDMENT/TERRY STOPS QUESTIONS:

- Allegations of pedestrian stops, frisks of persons, searches of persons, vehicle stops, vehicle frisks, or vehicle searches were present in 19.7% of PC memos in the sample.
- If any allegations of pedestrian stops, frisks of persons, searches of persons, vehicle stops, vehicle frisks, or vehicle searches were present in the PC memos, 50% had all allegations listed on the conclusions page.
- 90.2% of PC memos indicated that the Audits and Inspections unit reviewed the 48A to determine whether the stop/frisk/search was justified.
- Stops, frisks, searches of persons, and vehicle search allegations were analyzed separately from one another in 44% of cases.



The cases audited in this sample showed that in half of the cases with 4th Amendment-related allegations present, not all of the 4th Amendment allegations raised in the investigation were listed on the conclusions page of the PC memo. This may lead to an incomplete record of all officer actions in a stop and frisk encounter.

For example, in a CAP audited in this sample, a complainant alleged they were stopped and searched by an officer. The investigation showed that there was a founded report of a shooting in the area, and the officer stopped the complainant and conducted a safety frisk because the complainant reasonably matched the description. The conclusions page, however, listed a single allegation: Improper Search/Seizure, which was used to address the frisk. The stop, although it was a separate action, was not addressed as an allegation. Without any explanation, it is impossible for a reader to know if allegations were left out intentionally or unintentionally.

Further, officers stopped the individual because of a description of a short white male walking in a specific direction. The PC memo does not specify the description of the complainant, nor does it analyze whether the complainant matched the description and whether it was close enough of a match based on legal standards and precedents. Without this analysis, it is not clear why or how the investigation determined that the stop was justified.

The PPD Audits and Inspections Unit is sometimes used by IAD investigators to review the 75-48A stop report to help determine if the officer had sufficient reason to stop/frisk/search an individual. Given the important nature of 4th Amendment-related allegations, this is a great resource for investigators analyzing such allegations. An increase in these reviews over time would show additional internal oversight of stop and frisk-related complaint investigations, although the Audits and Inspections unit may not have the capacity to do these reviews. Attorneys from the City's Law Department could also be a useful resource for legal analysis.

Officers must have varying levels of suspicion and various factors must be present to justify the different actions of stops, frisks, and searches, so investigations should generally analyze these actions separately. In the sample, 4th Amendment-related allegations were analyzed separately from one another less than half (44%) of the time. While there can be utility in analyzing these allegations together in some situations, the complexity of these allegations can often warrant separate analysis.

CPOC will continue to audit all CAPs that include 4th Amendment-related allegations. As with other types of CAPs, CPOC hopes to ensure that these cases are investigated consistent, with all allegations clearly listed and thoroughly analyzed so that officers continue to be held accountable when appropriate.





Moving Forward

The ultimate goals of auditing are to bring more transparency to the PPD Internal Affairs investigation process, pinpoint areas for improvement, enforce investigative best practices, and to build trust between the residents of Philadelphia and the investigators assigned to their complaints. CPOC hopes through this report that the community will better understand CPOC's work in auditing Internal Affairs investigations.

As more audits are conducted and more data about Internal Affairs investigations is collected, the Auditing and Monitoring Unit will continuously send reports to PPD about the unit's findings. The team has added three more auditors, who will add to the unit's capacity for reviewing cases and the number of eyes reviewing cases themselves.

Through sharing the results of case audits, CPOC hopes to open a dialogue with the PPD about areas for focused improvement in the Internal Affairs investigation process. CPOC looks forward to collaborating with PPD in ensuring that police misconduct investigations in Philadelphia are as thorough and impartial as possible.

APPENDIX

26

Appendix 1, Part 1 – Standards for peer review of closed cases by the Chicago Council of Inspectors General on Integrity and Efficiency (Page 5)

29

Appendix 1, Part 2 – Auditing tool used by the Chicago Office of the Inspector General (Page 5)

33

Appendix 2 – CPOC’s Auditing Manual (Page 5)

48

Appendix 3 – List of CPOC’s Auditing Questions (Page 5)

50

Appendix 4 – List of investigative outcomes for PPD Internal Affairs cases (Page 9)

54

Appendix 5 – The Mayor of Philadelphia’s Executive Order 05-17 (Page 12)

CIGIE Investigations Quality Assessment Review: Individual Closed Case Review Checklist

PURPOSE: Appendix D-1 is based on CIGIE’s Quality Standards for Investigations. The Quality Standards contain three general standards (Qualifications, Independence, and Due Professional Care) and four qualitative standards (Planning, Execution, Reporting, and Information Management).

This checklist is used to review Closed Case Files in an effort to determine the level of conformity with the standards adopted in the CIGIE Quality Standards for Investigations. Complete one checklist for each closed case reviewed. Enter a Y (Yes), N (No), or NA (Not Applicable) for each of the items on this checklist. Enter comments as applicable. Answers to certain questions below—particularly in the Independence and Due Professional Care sections—may not be readily available or apparent. In these instances, the peer review team should assess whether there is clear, specific and articulable information in the case file to suggest the standard was violated. In the absence of such information, the appropriate answer is “yes” to the corresponding question. The “Comments” field is used by the reviewing agency for miscellaneous notes or explanations.

The results of these checklists will be summarized in the *CIGIE Peer Review Case Review Summary Checklist* (Appendix D-2)

OIG Being Reviewed:	Closed Case # Being Reviewed:
Reviewing OIG:	Closed Case Office:
Date of Case Review:	Reviewer:

A. INDEPENDENCE		
<u>Criteria/Requirements</u>	<u>Y/N/NA</u>	<u>Comments</u>
1. Were the investigators free, both in fact and appearance, from impairments to independence?		
B. DUE PROFESSIONAL CARE		
<u>Criteria/Requirements</u>	<u>Y/N/NA</u>	<u>Comments</u>
2. Were reasonable steps taken to ensure pertinent issues were sufficiently resolved and all appropriate criminal, civil, contractual, or administrative remedies are considered?		
3. Does available information suggest that constitutional rights were respected (e.g., Garrity, Kalkines, Miranda, etc.)?		
4. Was the investigation conducted in a fair and equitable manner?		
5. Was evidence gathered and reported in an unbiased and independent manner?		
6. Were investigative activities conducted and reported with due diligence and in a timely manner?		
7. Were the investigative report findings and accomplishments supported by adequate documentation?		

C. PLANNING		
<u>Criteria/Requirements</u>	<u>Y/N/NA</u>	<u>Comments</u>
8. Was the incoming complaint evaluated against investigative functions, priorities, and guidelines?		
9. Was initiation of the case approved by a supervisor?		
10. If appropriate, does the file contain information that an investigative plan of action was established?		
11. When present, was the investigative plan consistent with the <i>Quality Standards for Investigations</i> ?		
D. EXECUTION		
<u>Criteria/Requirements</u>	<u>Y/N/NA</u>	<u>Comments</u>
12. Did investigators act as fact-gatherers and not allow conjecture, unsubstantiated opinion, or bias to affect activities?		
13. Was the FBI notified promptly? (if applicable)		
14. Were two investigators present when conducting interviews in situations that were potentially hazardous or compromising?		
15. Were contemporaneous interview notes retained in case file until final disposition?		
16. Did investigators comply with organizational policies/procedures for the gathering, preserving, and/or disposing of evidence?		
17. Were investigative activities documented in the case file?		
18. Were subjects' rights and waivers clearly documented (when administered)?		
19. Were witness confidentiality requests documented?		
20. Where requested and granted, was the confidentiality of witnesses adequately protected?		
21. Was consensual monitoring conducted in accordance with agency policy/procedures?		
22. Was a confidential source/informant utilized in accordance with agency policy/procedures?		
23. Was an undercover operation or activity utilized in accordance with agency policy/procedures?		
24. Was a Sensitive Target involved in this case? (i.e. Public Official, Law Enforcement, Diplomatic Corps, Witness Security Program, etc.)		
25. Was Grand Jury material properly marked, securely stored, and properly disposed of?		
26. Were supervisory case reviews conducted?		

E. REPORTING		
<u>Criteria/Requirements</u>	<u>Y/N/NA</u>	<u>Comments</u>
28. Were reports accurate, clear, complete, concise, logically organized, timely, and objective?		
29. Did reports include a clear and concise statement of the applicable law, rule, or regulation that was allegedly violated or that formed the basis for an investigation?		
30. Was evidence outlined in a report supported by documentation in the investigative case file?		
31. Were reports free of opinions; personal views; unsupported assessments, conclusions, observations, or recommendations?		
32. If applicable, were systemic weaknesses identified during investigation reported to agency officials?		
33. Were reports prepared in accordance with the agency's policies?		
F. INFORMATION MANAGEMENT		
<u>Criteria/Requirements</u>	<u>Y/N/NA</u>	<u>Comments</u>
34. Was a case file established immediately upon the opening and assignment of an investigation?		
35. Is the case file formatted, organized, and maintained in a manner that is consistent with agency policies?		
36. Was information about the case—such as opening date, judicial actions and outcomes, administrative outcomes, reports issued, identifying information about witnesses and subjects, and related data—in a form that allowed for effective retrieval, referencing, and analysis?		
E. Comments (continued)		

CIGIE Investigations Quality Assessment Review: Case Review Summary Checklist

PURPOSE: Appendix D-2 is based on CIGIE’s Quality Standards for Investigations. The Quality Standards contain three general standards (Qualifications, Independence, and Due Professional Care) and four qualitative standards (Planning, Execution, Reporting, and Information Management).

This checklist is used to capture—in one document—the summary results from the review of closed case files (Appendix D-1). This checklist is used in an effort to determine the level of conformity with the standards adopted in the CIGIE Quality Standards for Investigations.

<u>OIG Being Reviewed:</u>	
<u>Reviewing OIG:</u>	
<u>Dates of Case Review:</u>	
<u># of Closed Cases Available for Review:</u>	
<u># of Closed Cases Reviewed:</u>	

Instructions: Complete one D-2 checklist to summarize the results of the D-1 case reviews. Enter C (Compliant), NC (Non-Compliant) or NA (Not Applicable) in the second column for each element. If you enter NC, explain what you have found in the *Comments* column. Identify how this problem represents a serious failure to comply with a particular Attorney General Guideline; external regulation, policy, or guideline; or CIGIE Quality Standard.

A. DUE PROFESSIONAL CARE		
<u>Criteria/Standard</u>	<u>Compliant/Non-Compliant (C/NC)</u> <u>Not Applicable (NA)</u>	<u>Comments</u>
1. Were the investigators free, both in fact and appearance, from impairments to independence?		

D. PLANNING		
<u>Criteria/Standard</u>	<u>Compliant/Non-Compliant (C/NC)</u> <u>Not Applicable (NA)</u>	<u>Comments</u>
2. Were reasonable steps taken to ensure pertinent issues were sufficiently resolved and all appropriate criminal, civil, contractual, or administrative remedies are considered?		
3. Does available information suggest that constitutional rights were respected (e.g., Garrity, Kalkines, Miranda, etc.)?		
4. Were investigations conducted in a fair and equitable manner?		
5. Was evidence gathered and reported in an unbiased and independent manner?		
6. Were investigative activities conducted and reported with due diligence and in a timely manner?		
7. Were investigative report findings and accomplishments supported by adequate documentation?		
C. PLANNING		
8. Were incoming complaints evaluated against investigative functions, priorities, and guidelines?		
9. If appropriate, did files contain information that investigative plans of action were established?		
10. When present, were investigative plans consistent with the <i>Quality Standards for Investigations</i> ?		
D. EXECUTION		
11. Did investigators act as fact-gatherers and not allow conjecture, unsubstantiated opinion, or bias to affect activities?		
12. Was the FBI notified in accordance with Attorney General guidelines?		
13. Were two investigators present when conducting interviews in situations that were potentially hazardous or compromising?		
14. Were contemporaneous interview notes retained in case files until final disposition?		
15. Did investigators comply with organizational policies/procedures for the gathering/preserving, and/or disposing of evidence?		
16. Were investigative activities documented in the case files?		

<u>Criteria/Standard</u>	<u>Compliant/Non-Compliant (C/NC)</u> <u>Not Applicable (NA)</u>	<u>Comments</u>
17. Were subjects' rights and waivers clearly documented (when administered)?		
18. Were witness confidentiality requests documented?		
19. Where requested and granted, was the confidentiality of witnesses adequately protected?		
20. Was consensual monitoring conducted in accordance with the procedures established by AG guidance?		
21. Was Grand Jury material properly marked, securely stored, and properly disposed of?		
22. Were supervisory case reviews conducted?		
23. Did these investigations comply with appropriate AG Guidelines?		
E. REPORTING		
24. Were reports accurate, clear, complete, concise, logically organized, timely, and objective?		
25. Did reports include a clear and concise statement of the applicable law, rule, or regulation that was allegedly violated or that formed the basis for an investigation?		
26. Was evidence outlined in reports supported by documentation in the investigative case file?		
27. Were reports free of opinions, personal views, unsupported assessments, conclusions, observations, or recommendations?		
28. If applicable, were systemic weaknesses identified during investigations reported to agency officials?		
29. Were reports prepared in accordance with the agency's policies?		
F. INFORMATION MANAGEMENT		
30. Were case files established immediately upon the opening and assignment of an investigation?		
31. Were case files organized and maintained in a manner that is consistent with agency policies?		
32. Was information about the case—such as opening date, judicial actions and outcomes, administrative outcomes, reports issued, identifying information about witnesses and subjects, and related data—in a form that allowed for effective retrieval, referencing, and analysis?		

G. Comments

Audits of Complaints Against the Philadelphia Police Department

**A MANUAL DESCRIBING CPOC'S
COMPLAINT AUDITING PROCESS
AND PPD'S COMPLAINT
INVESTIGATIONS**

What is a complaint audit at CPOC?

At CPOC, auditing a complaint against police involves gathering data about the facts underlying the complaint and the investigation conducted by Internal Affairs investigators to assess the process for quality, thoroughness, and objectivity.

Every month, the Philadelphia Police Department's Internal Affairs Bureau forwards CPOC recently completed investigations into police misconduct. CPOC only receives investigations based on complaints made by members of the public (known as "Complaints Against Police" or "CAPs,") CPOC does not receive internal investigations.¹

The outcome of each investigation is critical: if the investigator did not sustain any allegations against an officer, the process ends; if any allegations were sustained through the investigation, the case moves through the Police Board of Inquiry (PBI) discipline process, including the Charging Unit and a PBI Hearing when necessary.² Investigation outcomes are discussed in this manual. When the investigation and subsequent disciplinary process—if needed—are complete, CPOC's Auditing and Monitoring Unit receives the PC memos. These documents form the basis of our audits.

CPOC utilizes a series of questions to systematically evaluate the investigation described in each PC memo. These questions provide space for auditors to highlight areas of concern, such as missing allegations against an officer or discrepancies between the evidence presented and the investigation's conclusion.

Why is it important for CPOC to audit police complaints?

CAPs are currently investigated solely by Internal Affairs, which is a unit housed within PPD and is comprised of investigators who are sworn PPD personnel. Auditing the investigations into CAPs helps us better understand an insulated, internal discipline process. Police misconduct investigations in Philadelphia have not been subject to consistent reviews from outside perspectives before. The public at times does not trust the investigative process and have expressed concern that officers investigating other officers are unfairly sympathetic to officers accused of misconduct, as well as less likely to empathize with victims of misconduct. Through reviewing these cases and recommending improvements CPOC may be able to help build more public understanding and trust in the process.

CPOC's auditing process is designed to identify themes or trends across investigations. This is a rich data set that could lead to various outcomes, such as understanding which neighborhoods experience or report misconduct most frequently and what that could mean for PPD operations, and looking for ways to ensure IAD investigations are consistent so that residents and officers alike can benefit from procedural fairness.

¹Internal investigations are defined in PPD Office of Professional Responsibility (OPR) Policy #10 as "complaints originating from a source other than a citizen or citizens' group; any allegation of corruption or serious police misconduct received; but not limited to:

1. Requests or information received by anonymous sources or by Police Department personnel alleging corruption, misconduct, or departmental violations.
2. Information alleging police misconduct received from other law enforcement or criminal justice agencies, e.g. FBI, District Attorney's Office, other police departments, etc.
3. Anonymous information alleging corruption, misconduct, or departmental violations."

²For more information about the PBI Charging Unit and PBI Hearings, see CPOC's follow-up report on the PBI Collaborative Reform process.

HOW WAS THE CPOC AUDITING PROCESS DEVELOPED?

CPOC's legislation authorizes the agency to conduct individual investigations into citizen complaints of police misconduct, conduct audits, produce policy reports, and publish data. Until CPOC is fully staffed and has developed the necessary processes to carry out the investigative piece of the legislation, CPOC's audits of IAD misconduct investigations provide an effective oversight tool, which help improve the accountability functions that are already in place at PPD.

CPOC developed a process for reviewing IAD investigations into CAPs following practices in use by other federal and local government oversight bodies. CPOC staff researched how oversight agencies conduct this work in other cities, specifically large cities that are comparable to Philadelphia in their volume of complaints and police department size.

CPOC developed standard criteria and questions to aid in reviews of PC memos to ensure that all cases are reviewed the same way and that CPOC collects information consistently. The audits record quantitative aspects of investigations, such as whether investigations were completed within 90 days, as well as more qualitative standards, such as whether the findings matched the evidence presented in the PC memo. The standards for review were developed using PPD Office of Professional Responsibility (OPR) Policies along with standards for peer review of closed cases developed by the Council of Inspectors General on Integrity and Efficiency and a similar auditing tool used by the Chicago Office of the Inspector General (Appendix 1).

During the pilot complaint auditing program, the Auditing and Monitoring Unit audited every PC memo that IAD forwarded over a six-month period from January 2022 through June 2022. The results of these audits are presented in a separate report. After the initial period, the Auditing and Monitoring Unit developed selection criteria to determine which cases to audit. Rather than auditing 100% of closed CAP investigations, CPOC will continue to audit all cases that include allegations of criminal allegations, physical abuse, sexual misconduct, falsification, vehicle and pedestrian stops, and civil rights violations, as well as a random sample of other types of cases when unit capacity allows to ensure a variety of investigations are reviewed.

PPD INTERNAL AFFAIRS INVESTIGATIONS OVERVIEW: INTAKE, CLASSIFICATION, INVESTIGATION, & OUTCOMES

IAD Intake & Classification

The Internal Affairs Unit at PPD receives complaints against police from handwritten forms submitted at PPD districts, PPD’s online form, walk-ins at IAD, and via referrals from CPOC. Other agencies can refer complaints as well. The intake center at IAD handles all intake duties.

Staff at the intake center create a typed summary of the complaint and the involved officers on a document referred to as the “white paper.” The intake center classifies the complaint on the white paper based on the most serious allegation present, using the hierarchy of categories below. This classification does not change during the investigation and eventually gets included with PPD’s public complaint data.

The list includes 1 to 15, with 1 being the most serious type of allegation.

- | | |
|----------------------------|--------------------------------|
| 1. Sexual Crime/Misconduct | 9. Departmental Violations |
| 2. Domestic | 10. Unprofessional Conduct |
| 3. Criminal Allegation | 11. Verbal Abuse |
| 4. Physical Abuse | 12. Lack of Service |
| 5. Civil Rights Complaints | 13. Other Misconduct |
| 6. Drugs | 14. Non-Investigatory Incident |
| 7. Falsification | 15. Confidential Investigation |
| 8. Harassment | |

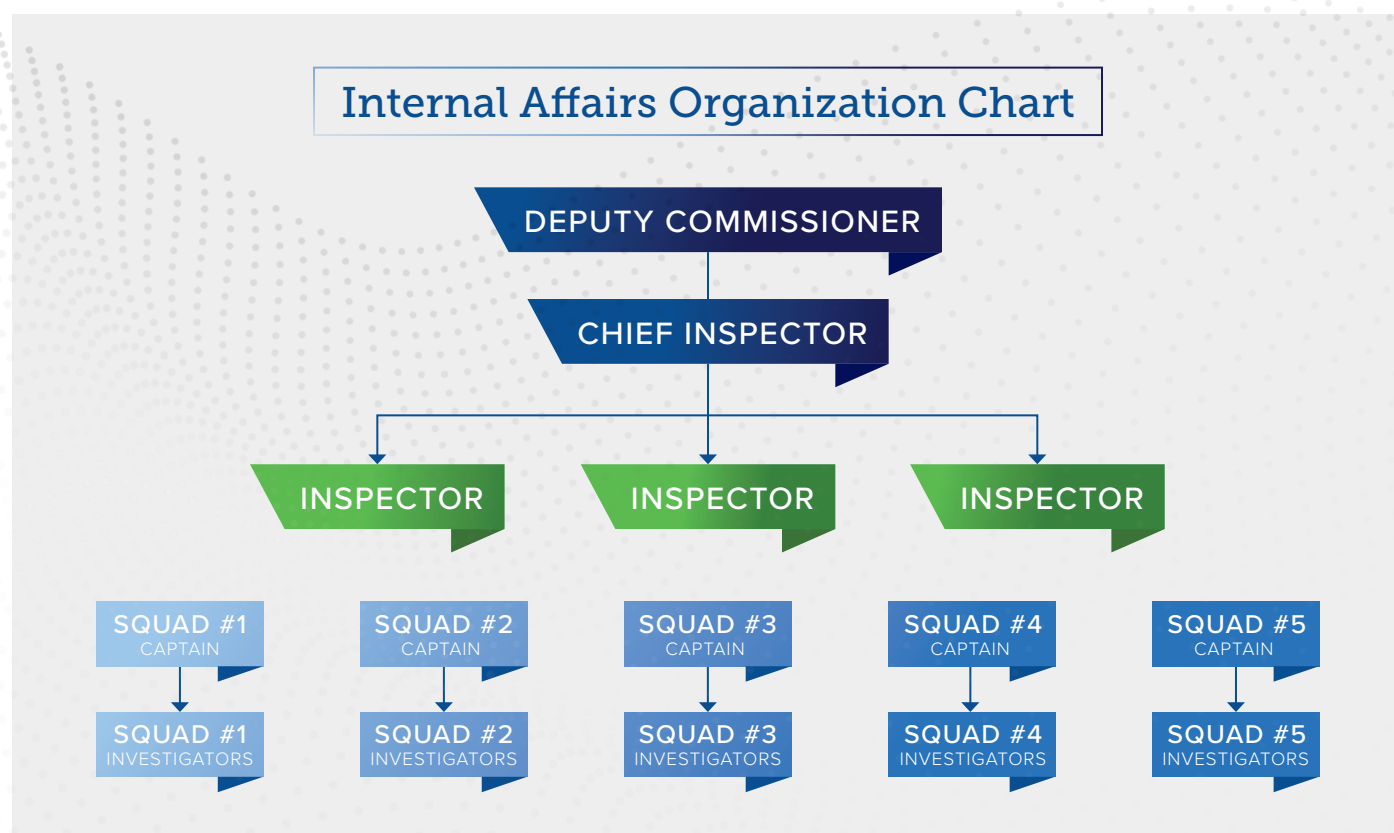
A subclassification is also selected for each complaint. The subclassification is also hierarchical, determined by the classification. The full list of classifications and subclassifications is included as Appendix 2 in this report. Below is an example of subclassifications, associated with the Falsification classification:

Classification 7: Falsification

- | | | |
|----------------------|-------------------|--------------------|
| – Military Orders | – Information | – Injury Paperwork |
| – Official Documents | – Injuries/I.O.D. | |
| – Statements | – Sick Notes | |

After the primary classification and subclassification is selected for the white paper, the complaint is then assigned to an IAD squad based on the geographic region of the incident. An IAD squad is a group of investigators headed by a primary, supervisory investigator, known as a Squad Captain. The Squad Captain assigns a specific investigator to the

complaint. Below is a simplified excerpt from the IAD organizational chart. This chart covers just the investigators within Internal Affairs which investigate Complaints Against Police; there are other IAD squads that handle special cases like Equal Employment Opportunity that are not covered here.



Investigations

After being assigned the investigation, the IAD investigator contacts the complainant. The investigator introduces themselves to the complainant as the assigned investigator for their complaint, and attempts to schedule a formal interview.

Complainants may not respond to the IAD investigator's contact attempts. While an investigator can do some other investigative work without the

complainant's cooperation, it is difficult to move forward with a thorough investigation when the complainant is not interviewed about their experience in depth. PPD Office of Professional Responsibility (OPR) Policy 28³ establishes procedures around the lack of cooperation from complainants in IAD investigations and prescribes how investigators should attempt to contact complainants, victims and witnesses involved in a complaint.

³ Office of Professional Responsibility policies are internal to the Philadelphia Police Department and have been shared with CPOC staff for inter-agency transparency and accountability. These policies are not available for publication to the public.

The investigator must attempt to contact the complainant(s), victim(s), and witnesses by:

- E-mail
- At least one documented telephone call
- A 75-48 message with DC numbers, when the location is within Philadelphia, requesting that the complainant and witness contact the IAD investigator
- IAD form letters sent by Certified and 1st Class U.S. Mail

The policy states that these contact attempts should be made at reasonable intervals and should allow sufficient time for a response. If a response is not received within 15 business days, the complaint may move forward without complainant cooperation or be closed out.

Interviews of all complainants, witnesses, and officers are conducted in person at the Internal Affairs headquarters at 7790 Dungan Road in Northeast Philadelphia. When an in-person interview is not possible, investigators can conduct interviews via telephone. Investigators use interview questions previously prepared based on information gathered and additional information gained as the interview progresses.

While complainant, victim, and witness interviews are scheduled and completed, the investigator also works to obtain any relevant evidence. Evidence can include body worn camera footage; external surveillance footage, such as dash cameras and security cameras; and PPD documents such as incident reports, radio logs, patrol logs, and medical records. If a complainant was not able to identify the specific officer(s) involved in the complaint, the investigator can use patrol logs and other police documents to attempt to determine the identity of the officer(s).

Lastly, the investigator interviews any officers involved in the complaint. Officer interviews may include target officers (who are accused of

misconduct) and non-target officers (who may have witnessed the incident but are not accused of misconduct).

Investigators must check the court attendance system, training, and vacation files to prevent conflicts when scheduling officer interviews. Generally, officers attend interviews while on duty and are not allowed to use overtime for an IAD interview. An officer will often report to an interview with an attorney or representative from the Fraternal Order of Police (FOP) to represent them and provide guidance as needed. According to OPR Policy 5, Investigators must give officers 72 hours' notice before an IAD interview so that they can obtain FOP representation; these interviews are compelled, meaning that if an officer declines to come in for an interview, they will be penalized according to PPD's Disciplinary Code.

At every officer interview, the investigator must give officers Garrity warnings. Garrity warnings function similarly to Miranda warnings, which are used in criminal interviews, but are administered to any employee questioned as part of an administrative investigation. The warnings are designed to safeguard a person's 14th and 5th Amendment rights; any information that might be obtained during questioning, or the "fruits" thereof, cannot be used in connection with criminal proceedings that could potentially be brought against the officer.

It is important to note that the vast majority of CAPs do not involve criminal or potentially criminal allegations. A sample officer interview transcript with Garrity warnings, as well as a sample civilian interview transcript, are included as Appendix 3.

IAD interviews are currently not recorded; investigators manually type out officer responses as they give them. At the conclusion of the interview,

the officer reviews the interview transcript and signs each page to confirm the information stated is accurate. This review and signing process is the same for civilian interviews as well. Investigators can re-interview officers and civilians to obtain clarification on previous statements or collect more information.

Investigative Outcomes

When the investigation is complete, the investigator determines the appropriate findings for each allegation in the complaint and provides an explanation for each finding based on the evidence collected. Allegations generally follow the classifications and subclassifications format previously shown. Although the white paper only includes one classification and subclassification for each complaint, there is no limit to how many allegations can be listed against officers. The investigator must establish which allegations are present in the complaint and address the allegations in the findings. Any allegations missed by investigators will not be considered for disciplinary action or placed on the officer's record.

The standard of proof for administrative investigations is "preponderance of the evidence." Preponderance of the evidence is met, if, considering all the evidence, the allegation is more likely to have occurred than not. Preponderance of the evidence is sometimes defined as "51%," or "50% and a feather."

For each allegation in the complaint, the investigator is tasked with deciding the findings based on the preponderance of the evidence standard. There are several possible findings for each allegation. The most common are: "sustained," "not sustained," "unfounded," "exonerated," and "withdrawn." The full list of investigative outcomes from OPR Policy #8 is included as Appendix 4 to this report.

INTERNAL AFFAIRS INVESTIGATIONS

Allegation Findings

FINDING	FACTS ESTABLISHED?	DID MISCONDUCT OCCUR?
SUSTAINED	✓	✓
NOT SUSTAINED	✗	?
UNFOUNDED	✓	✗
EXONERATED	✓	✗
WITHDRAWN	✗	?

1. **Sustained:** The investigation demonstrated that the incident/infraction occurred, and the action(s) alleged in the complaint were inconsistent with Departmental policy, directives, orders, and/or applicable local, state, or federal laws.
2. **Not sustained:** The investigation could neither prove nor disprove whether the incident/infraction occurred. “Not sustained” findings are used by investigators often.
 - a. Example: a member of the public filed a complaint and alleged that an officer verbally abused them. The officer denied verbally abusing the complainant in their interview, and without any independent evidence—such as body camera footage, external surveillance footage, or independent witness testimony—there is no way for the investigator to prove whether the accused conduct occurred or not. A “not sustained” outcome for an allegation of verbal abuse would be applied in this example.
3. **Unfounded:** The investigation revealed that the incident/infraction did not occur.
4. **Exonerated:** The investigation revealed through a preponderance of the evidence that the officer acted properly. The act(s) alleged did take place but were lawful, proper, and in accordance with Departmental policy.
 - a. Example: a member of the public filed a complaint and alleged that an officer improperly arrested them. The investigation found that the complainant committed specific violations for which the officer arrested them, and so while the officer did arrest the complainant, it was determined to be lawful. An “exonerated” outcome for an allegation of improper arrest would be applied in this example.
5. **Withdrawn:** The complainant decided to withdraw their complaint of their own free will.

After the investigator determines the findings for each allegation, the investigator begins drafting the PC memo for the complaint.

Creation of the PC Memo

The Police Commissioner's Memorandum (PC Memo) is a comprehensive report that details the investigative steps taken, officer information, interview summaries, analysis of evidence, and the findings for each allegation. The PC memo serves as the investigative report for each IAD investigation. OPR Policy 21 details the procedures and format investigators must follow when drafting the PC memo; a sample PC memo with fictional information is included in the appendix as Appendix 5.

Structure of the PC Memo

ALLEGATION SECTION

- Summary of complaint and case info
- Involved officers

INVESTIGATIVE ANALYSIS SECTION

- Interviews
- Evidence

CONCLUSIONS SECTIONS

- Findings for allegations
- Signatures

ALLEGATION SECTION

- Basic information about complaint and complainant, including the date it was received by IAD.
- Very brief summary of allegation(s).
- Accused officer information – name, rank, badge, date of appointment, and assignment.
- Assigned IAD investigator information – name, rank, badge.
 - Sometimes the investigator gets reassigned in the middle of the investigation. This change would be noted here, with the name, rank, and badge number of the second investigator.

INVESTIGATIVE ANALYSIS SECTION

- Should the investigation exceed the 90-day limit for investigations as mandated in the Mayor's Executive Order 05-17 (Appendix 6), a notation will be made in the first paragraph of this section. This sentence will state that all parties have been notified of

the delay and will explain the reason for the delay. The investigation period runs from the date the complaint was received to the date of completion listed on the PC memo. It is important to note that IAD has changed their policy recently – the deadline for conducting investigations is now 90 business days, as opposed to 90 calendar days.

- All investigative actions taken will be explained:
 - Contact attempts to the complainant are listed first.
 - If the complainant cannot be contacted/does not want to participate, the investigator will list a summary of their initial complaint.
 - If the complainant participates, the investigator includes a summary of the complainant's interview at IAD. The summary consists of a brief factual narrative of the incident.
 - Other investigative actions taken by the investigator, such as neighborhood surveys, medical records review, and other pertinent facts.
- Officer interview summaries:
 - Typically non-target (witness) officer interviews summaries are included next, followed by the target officer(s).
 - The dates of the officer interview and any re-interviews are included after the officer's information.
- Any additional relevant documents and investigative steps are listed and summarized after the officer interviews.
- According to OPR Policy 21, the Analysis section includes the narrative of the incident, highlighting inconsistencies, corroborations, denials, and other factors that address the issues of the case and support or refute the allegations. The independence and credibility of witnesses and levels of cooperation should be addressed.

CONCLUSIONS SECTION

- The findings of the investigation will be outlined in the Conclusion. According to OPR Policy 21, each of the complainant's allegations should be individually identified and followed by a finding.
- Each finding is followed by a short explanation citing the basis for the finding.
- Departmental violations and/or any other misconduct that were not part of the original complaint, but were revealed during the investigation, will be included.
- The investigator prepares the conclusions, but an Inspector approves and signs.
- The Inspector can make recommendations here for policy reviews if needed, but this is rare.
 - For example, the investigation revealed an issue or gap in a PPD policy that an inspector recommends reevaluating.

PC Memo Review and Sign-Off Process

Once an investigator completes their investigation and PC memo, the PC memo is sent for review up the chain of command in the Police Department and members in different ranks sign off on the investigation and investigative conclusions.

All reviews are done using a paper case file. This requires a hard copy of the case file be delivered from Internal Affairs in Northeast Philadelphia to PPD Headquarters in Center City in order to be circulated among the various members of PPD leadership who must sign it.

An IAD investigation with sustained allegations currently receives reviews and signatures in the following order:

1. IAD Squad Captain
2. IAD Commanding Officer (Inspector)
3. Chief Inspector, Office of Professional Responsibility
4. Deputy Commissioner, Office of Professional Responsibility
5. Police Commissioner
6. Deputy Commissioner of Investigations

Cases with sustained allegations move to the disciplinary process at the Police Board of Inquiry. If no allegations of misconduct were sustained, the case file receives a different set of signatures through the chain of command and is then closed with no further steps taken.

CPOC Complaint Auditing Process

Auditors conduct every CAP audit by using a series of questions to gather facts about the complaint and the investigation, which helps them collect and track data about IAD investigations to assess for quality, thoroughness, and objectivity.

Auditing questions capture information about incidents and investigations, which allows Auditors to see how often IAD meets their investigation deadline of 90 business days, how long it takes for an IAD inspector to review/approve the investigations, demographic data on complainants, and more.

The Auditing & Monitoring Unit conducted its first batch of audits with a spreadsheet of questions that the unit developed; we have since moved into a case management system, Sivil, which enables the unit to conduct data analysis on question responses more systematically and regularly. A screenshot of a portion of the data collection form in Sivil is included as Appendix 7.

The steps involved when auditing an IAD investigation into a complaint against police:

1. Reading the Police Commissioner's Memo, Index, and White Paper
2. Taking note of allegations made by the complainant
3. Taking note of all officer actions and if they possibly could be allegations/violations of PPD policies
4. Inputting facts about the complaint and investigation and answering audit questions to assess the quality of the investigation
5. Inputting all officers accused of misconduct and the allegations that IAD attached to them, as well as peripheral officers interviewed in the investigation

STEP 1: READING THE POLICE COMMISSIONER'S MEMO, INDEX, AND WHITE PAPER

For every CAP investigation, IAD forwards to the Auditing & Monitoring Unit the Police Commissioner (PC) Memo, Index, and White Paper.

These documents are explained in depth in the Internal Affairs section of this manual, but as a brief overview:

- **PC Memo:** A comprehensive document that records the steps taken in the IAD investigation and the investigation's conclusion.
- **Index:** The table of contents for the investigative file; it lists all documents and interview pages included in the investigative file. CPOC does not currently have access to the full case files for all CAPs, but can review specific case files individually at IAD headquarters upon request.
- **White Paper:** The initial summary of the complaint completed by IAD staff before it is assigned and before any formal interviews occur. This page includes important details about how IAD classified the complaint and when it was assigned to an investigator.

Each PC Memo contains facts about the investigation that Auditors pull out and record in Sivil while completing their audit. Examples of facts pulled from the PC Memo include demographic information about the complainant, the date of the incident, and the police district where the incident occurred.

Auditors review the Index to determine whether the investigator obtained all relevant evidence in the investigation. If the investigator did not include a type of police report, or check for radio logs, these absences in the Index would be noted by Auditors.

Lastly, Auditors review the White Paper to assess how PPD formally classified and subclassified the incident. As these classifications do not change in PPD's data system, it is important to review whether the most serious allegation present in the initial complaint was chosen as the classification on the White Paper.

STEPS 2 & 3: TAKING NOTE OF ALLEGATIONS MADE BY THE COMPLAINANT & ALL OFFICER ACTIONS

An important evaluative component of audits involves comparing the allegations made by the complainant and victim(s) to the allegations included in the formal conclusion of the investigation.⁴ Any major discrepancies can indicate that allegations are missing, which prevents such allegations from being properly analyzed and potentially moving forward into the police disciplinary process if needed.

Auditors review the complainant's description of the incident from their original complaint and the complainant's interviews if applicable, as well any officer actions described in witness and officer interviews, to compare the allegations.

STEP 4: INPUTTING FACTS AND ANSWERING AUDIT QUESTIONS TO ASSESS THE QUALITY OF THE INVESTIGATION

Auditors input initial information about the complaint and investigation, including the demographics of the complainant(s) and victim(s), the classifications given on the White Paper, and dates that track the investigation process. Next, Auditors answer questions used to evaluate the investigation and determine whether the investigator followed IAD policies. There are about 30 questions, such as:

- Did the investigator make required attempts to identify, locate, and contact all civilian/non-PPD parties, including all potential witnesses? "Contact attempts will include e-mail, at least one documented telephone call, a 75-48 message with DC numbers, when location is within Philadelphia... as well as IAD form letters sent by certified and 1st class U.S. Mail." -OPR Policy 28
- Do the officer interview summaries in the PC memo address all allegations raised by the complainant/victims?

⁴ Office of Professional Responsibility Policy 21, Preparing IAD Reports.

- Does the PC memo indicate that the investigator checked for the existence of all potential audio recordings and video recordings, including BWCs?
- Were ALL allegations identified during the course of the investigation addressed on the conclusions page?

A full list of the audit questions that Auditors currently use will be included as Appendix 8; a slightly different version of these questions was used in the unit's first batch of PC memo auditing, and those questions will be specified in a corresponding auditing report.

STEP 5: INPUTTING ALL OFFICERS ACCUSED OF MISCONDUCT AND THEIR ALLEGATIONS, AS WELL AS WITNESS OFFICERS

Auditors log which officers were involved in each complaint. There are subject officers, who have allegations made against them, and witness officers, who do not have allegations against them but were involved in the incident. The PPD's roster of officers is embedded in Sivil, CPOC's case management system, so that Auditors may search an officer's payroll number and the rest of the officer's information is populated. Auditors also attach allegations to each officer from the PC Memo's conclusions page as needed. CPOC will periodically update the PPD roster when updated versions are provided by PPD; Auditors can also manually add officers if they do not appear in the roster, as well as unidentified officers classified as "unknown" in the investigation.

Expanded Audits

Auditors can mark PC Memo audits for expanded audits if there are areas of concern in the investigation. Examples that may indicate an expanded audit is needed are major discrepancies between the evidence presented and the findings or a PC memo that is not clear.

An expanded audit requires obtaining the full case file for an investigation from Internal Affairs, including interview transcripts, evidence documentation, and other police documents. There is an expanded audit section in Sivil with more in-depth questions around the investigator's interviews, evidence collection and analysis, and case disposition. As the capacity of the unit expands with more staff, Auditors will conduct more expanded audits from each batch of PC memos.

Questions used to conduct expanded audits are included below but are meant to be illustrative. The questions may change as the Auditing and Monitoring Unit continues to develop the auditing process.

Expanded Audit Questions:

INTERVIEWS

1. Are all relevant details from interview memos included in the PC memo?
2. Did the investigator ask appropriate follow-up questions in civilian interviews?
3. Did the investigator ask appropriate follow-up questions in officer interviews?
4. Did the investigator complete a report documenting every interview conducted with an involved party? This includes all complainants, reporting parties, victims, witnesses, and accused members.
5. Do the officer interview memos address all of the allegations raised by the complainant?
6. Do any of the interview memos (civilian or PPD) indicate the existence of additional evidence or witnesses that the investigator failed to obtain/contact?

EVIDENCE COLLECTION AND ANALYSIS

1. If applicable, were audio recordings included with the case file?
2. If applicable, did the investigator accurately summarize the audio recordings?
3. If applicable, were video recordings included in the case file?
4. If applicable, did the investigator accurately summarize the video recordings?
5. If video recordings were included, were any additional allegations present in the footage that were not addressed in the PC memo?
6. If applicable, were medical records in case file accurately summarized?
7. Are details of documentary evidence in the case file accurately represented in the PC memo?
8. Are all documents listed on the index included in the case file?

CASE DISPOSITION

1. Was there any evidence present in the case file that was not considered by the reporting investigator that could have materially affected the findings of the investigation?
2. Were material inconsistencies between statements and evidence contained in the case file resolved in the investigative conclusions?
3. Do case file materials indicate that allegations are listed against the correct officers?

Auditing in Relation to Monitoring Investigations of Police Misconduct

Complaint auditing occurs when the case is closed, with or without proceeding to the disciplinary process. While informative, complaint auditing does not allow CPOC to identify issues in an ongoing investigation while they can still be resolved. CPOC and its predecessor (PAC) have always had the authority to attend interviews at Internal Affairs and ask questions directly to officers and complainants during those interviews, as well as assist complainants through the complaint process. CPOC Auditors currently monitor CAPs in this way.

CPOC intends to develop a complaint monitoring process that includes additional oversight and reviews of complaint investigations before the investigations are finalized. This type of proactive complaint investigation monitoring, as opposed to reactive complaint auditing, is in line with how other police oversight agencies around the country function. Development of that process will undoubtedly be informed by the complaint auditing process and lessons learned by the unit as the process has been workshopped over time.

CONCLUSION

The ultimate goals of auditing are to bring more transparency to the PPD Internal Affairs investigation process, pinpoint areas for improvement, enforce investigative best practices, and to build trust between the residents of Philadelphia and the investigators assigned to their complaints. This manual serves as a guide for the community to not only better understand CPOC's work in auditing Internal Affairs investigations, but also the Internal Affairs investigation process itself.

As auditing is a new function of CPOC, there is an inherent learning curve in this process; the Auditing and Monitoring Unit will continually review the auditing process and report to ensure that investigations are reviewed in an impactful way.

Auditing Questions

Timeliness:

- 1) Was the investigation completed within 90 days?
- 2) If the investigation was not completed within 90 days, is an explanation included in the PC memo?
- 3) Did an Inspector review and sign the cover page within 30 days of the closing date of the investigation, as required by IAD policy?
- 4) Are significant gaps in investigative activity sufficiently explained?
- 5) Were all interviews conducted in a timely manner in order to ensure the best recollection of the facts?
- 6) Did the reporting investigator complete the PC memo in a timely manner?

Professional Standard of Care:

- 1) Does the selected classification most accurately fit the substance of the complaint?
- 2) Did the investigator make required attempts to identify, locate, and contact all civilian parties and non-PPD parties - including all potential witnesses?
- 3) Did the investigator exhaust all resources to identify the police officers accused of misconduct?
- 4) Did the investigator adequately identify and follow up on any new leads developed in the investigation?
- 5) Was the PC memo accurate, clear, complete, concise, logically organized?
- 6) Does the PC memo clearly articulate the incident that occurred and give the reader a clear picture of what happened?
- 7) Was the investigation unbiased?

Evidence Collection/Analysis & Interviews:

- 1) Do the PC memo and case index indicate that the investigator identified, located, and collected all foreseeable evidence related to the investigation?
- 2) Does the PC memo indicate that the investigator checked for the existence of all potential audio recordings and video recordings, including BWCs?
- 3) Did the investigator request audio and/or video evidence within an appropriate timeframe (BWC, external surveillance footage, etc.)?
- 4) Did the investigator interview all PPD witnesses or explain why PPD witnesses were not interviewed?
- 5) If applicable, did the investigator appropriately consider the independence of witnesses and their testimony?
- 6) Does the PC memo indicate that any officers were re-interviewed?

- 7) Do the officer interview summaries in the PC memo address all of the allegations raised by the complainant/victims?
- 8) Did the investigator obtain enough information to prove or disprove each individual allegation present in the case?
- 9) Was the analysis of the evidence thorough and inclusive of all relevant documents, interviews, and other information mentioned elsewhere in the PC memo?

Case Disposition:

- 1) Are the allegation findings on the conclusions page logical and reasonable based on the analysis of the evidence presented in the PC memo?
- 2) Did the PC memo include a clear and concise statement of applicable law, rule, or regulation, that was allegedly violated or that formed the basis for the investigation?
- 3) Were ALL allegations identified during the course of the investigation addressed on the conclusions page?
- 4) Did the investigation sustain ONLY administrative violations?

4th Amendment/Terry Stops:

- 1) Were any allegations of a pedestrian stop, frisk of person, search of person, vehicle stop, vehicle frisk, or vehicle search present in the PC memo?
- 2) If any allegations of a pedestrian stop, frisk of person, search of person, vehicle stop, vehicle frisk, or vehicle search present in the PC memo, were they all listed on the conclusions page?
- 3) Does the PC memo indicate that the Audits and Inspections unit reviewed the 48A to determine if the stop/frisk/search was justified?
- 4) Were stop, frisk, search of person, and vehicle search allegations analyzed separately from one another?

TYPES OF ALLEGATION FINDINGS

SUSTAINED: *AS AN INVESTIGATIVE FINDING:* The investigation demonstrates that the incident/infraction occurred and the action(s) alleged in the complaint were inconsistent with Departmental policy, directives, orders, and/or applicable local, state, or federal laws. *AS A DISPOSITION:* All investigative findings were *SUSTAINED*.

NOT SUSTAINED: *AS AN INVESTIGATIVE FINDING:* A thorough investigation can neither prove nor disprove the incident/infraction alleged. *AS A DISPOSITION:* All investigative findings were *NOT SUSTAINED*.

UNFOUNDED: *AS AN INVESTIGATIVE FINDING:* The investigation revealed that the incident/infraction alleged did not occur. *AS A DISPOSITION:* All investigative findings were *UNFOUNDED*.

EXONERATED: *AS AN INVESTIGATIVE FINDING:* The investigation revealed through a preponderance of the evidence that the officer acted properly. The act(s) alleged did take place but were lawful, proper, and in accordance with Departmental policy. *AS A DISPOSITION:* All investigative findings were *EXONERATED*.

WITHDRAWN: *AS AN INVESTIGATIVE FINDING:* The complainant decided to withdraw their complaint on his/her own free will.

DEPARTMENTAL VIOLATION: *AS AN INVESTIGATIVE FINDING:* The investigation revealed infractions of Departmental rules, directives, or procedures *ONLY*. **This is used as a finding for EEO allegations, off duty action allegations, and use of force internal investigation allegations ONLY.*

NO DEPARTMENTAL VIOLATION: *AS AN INVESTIGATIVE FINDING:* The investigation revealed *NO* infractions of Departmental rules, directives, or procedures. **This is used as a finding for EEO allegations, off duty action allegations, and use of force allegations ONLY.*

REFERRED: *AS AN INVESTIGATIVE FINDING AND OVERALL DISPOSITION:* Internal Affairs has preliminarily conducted an investigation and that information has been referred to another IAD investigation number or another unit or agency (city, state, or federal).

INACTIVE: *AS AN INVESTIGATIVE FINDING AND OVERALL DISPOSITION:* The complainant will not consent to an IAD interview due to a pending court proceeding *OR* the officer is unavailable due to long term IOD status or military leave, etc, and the investigation will be reopened when the court proceedings are concluded or when the officer returns to duty or is able to be interviewed.

LACK OF COOPERATION: *AS AN INVESTIGATIVE FINDING AND OVERALL DISPOSITION:* The complainant does not cooperate with the investigation and the

investigator has made all reasonable efforts to obtain the cooperation, and the investigation cannot proceed further without the cooperation of the complainant.

WITHOUT MERIT: *AS AN INVESTIGATIVE FINDING:* All the facts set forth in a complaint can be accepted as true in all respects and these facts disclose no improper behavior on the part of the officer. *AS A DISPOSITION:* All investigative findings were *WITHOUT MERIT*.

COMPLETE: *AS AN INVESTIGATIVE FINDING AND OVERALL DISPOSITION:* A “first complaint” of lack of service or verbal abuse that is closed out after a Divisional Inspector conducted an investigation and gave the officer(s) advice, instructions, and other useful feedback regarding the complaint and the officer(s) actual or perceived behavior, demeanor, or conduct to assist the officer in avoiding similar complaints in the future.

No I.A.D. Investigation: *AS AN INVESTIGATIVE FINDING AND OVERALL DISPOSITION:* The incident does not require investigation by Internal Affairs and has been referred to an outside unit or agency, such as, a Unit/District C.O., Traffic Court, or Postal Inspector (Only to be used by Intake/Data Ctr Personnel with CO IAD approval).

UNFOUNDED-Non EEO: *AS AN INVESTIGATIVE FINDING AND OVERALL DISPOSITION:* The facts set forth in the original EEO complaint do not meet the criteria for an EEO complaint, making the EEO allegation unfounded. **This is used as a finding for EEO allegations ONLY.*

CLOSED WITHOUT FINDINGS: *AS AN INVESTIGATIVE FINDING AND OVERALL DISPOSITION:* This will only be used upon the approval of the Chief Inspector, Office of Professional Responsibility, or when the investigation conducted by F.B.I. PPCTF and the U.S. Department of Justice has declined prosecution, or the investigation revealed no criminal involvement of a target employee nor any Departmental Violations. Other factors that may be encountered by the PPCTF may also include, but are not limited to: the targeted employee(s) is no longer employed by the PPD, statements from persons originally identified as witnesses cannot be obtained, and/or available physical evidence may be insufficient. **This is used as a finding for ISS/FBI allegations ONLY.*

While the above definitions refer to the overall **DISPOSITION** when the individual allegations involve either/both multiple findings and multiple employees. In order to simplify terms when referring to these more complex cases, the definitions below will be used.

PARTIALLY SUSTAINED: There are several allegations made against an individual officer and one or more allegations are SUSTAINED, but not all the allegations are SUSTAINED. In this finding **there is only (1) one officer/employee** involved and (1) or more of the total allegations are SUSTAINED and all other allegations are other than sustained.

MULTIPLE FINDINGS: More than one officer is involved and the allegations are SUSTAINED against one or more officers; ALL other allegations will be UNFOUNDED, NOT SUSTAINED, or officers may be EXONERATED. In this finding **there is always more**

than (1) one officer/employee involved with multiple allegations where at least (1) allegation or more is SUSTAINED and all other allegations are other than sustained.

****Note:** if there are more than (1) officer/employee involved and ALL of the allegations are SUSTAINED than the overall disposition is SUSTAINED.

SEVERAL FINDINGS: There are one or more officers involved in the incident and all of the allegations are either NOT SUSTAINED, UNFOUNDED, or some officers are EXONERATED. In this finding, **there are always multiple allegations AND differing findings**, however, none of those findings are sustained.

****Note:** if there are more than (1) officer/employee(s) involved and ALL of the allegations are the same than the overall disposition is the same. IE: 2 officers/employees with 4 allegations and all are UNFOUNDED, the overall finding is UNFOUNDED.

UNFOUNDED-Non EEO: AS AN INVESTIGATIVE FINDING AND OVERALL DISPOSITION: The facts set forth in the original EEO complaint do not meet the criteria for an EEO complaint, making the EEO allegation unfounded. **This is used as a finding for EEO allegations ONLY.*

CLOSED WITHOUT FINDINGS: AS AN INVESTIGATIVE FINDING AND OVERALL DISPOSITION: This will only be used upon the approval of the Chief Inspector, Office of Professional Responsibility, or when the investigation conducted by F.B.I. PPCTF and the U.S. Department of Justice has declined prosecution, or the investigation revealed no criminal involvement of a target employee nor any Departmental Violations. Other factors that may be encountered by the PPCTF may also include, but are not limited to: the targeted employee(s) is no longer employed by the PPD, statements from persons originally identified as witnesses cannot be obtained, and/or available physical evidence may be insufficient. **This is used as a finding for ISS/FBI allegations ONLY.*

. While the above definitions refer to the overall **DISPOSITION** when the individual allegations involve either/both multiple findings and multiple employees. In order to simplify terms when referring to these more complex cases, the definitions below will be used.

1. **PARTIALLY SUSTAINED:** There are several allegations made against an individual officer and one or more allegations are SUSTAINED, but not all the allegations are SUSTAINED. In this finding **there is only (1) one officer/employee** involved and (1) or more of the total allegations are SUSTAINED and all other allegations are other than sustained.

2. **MULTIPLE FINDINGS:** More than one officer is involved and the allegations are SUSTAINED against one or more officers; ALL other allegations will be UNFOUNDED, NOT SUSTAINED, or officers may be EXONERATED. In this finding **there is always more than (1) one officer/employee** involved with multiple allegations where at least (1) allegation or more is SUSTAINED and all other allegations are other than sustained.

****Note:** if there are more than (1) officer/employee involved and ALL of the allegations are SUSTAINED than the overall disposition is SUSTAINED.

3. **SEVERAL FINDINGS:** There are one or more officers involved in the incident and all of the allegations are either NOT SUSTAINED, UNFOUNDED, or some officers are EXONERATED. In this finding, **there are always multiple allegations AND differing findings**, however, none of those findings are sustained.

****Note:** if there are more than (1) officer/employee(s) involved and ALL of the allegations are the same than the overall disposition is the same. IE: 2 officers/employees with 4 allegations and all are UNFOUNDED, the overall finding is UNFOUNDED.

EXECUTIVE ORDER NO. 5-17

PROCESSING OF CIVILIAN COMPLAINTS ALLEGING POLICE MISCONDUCT

WHEREAS, issues relating to public safety are of primary concern to all civilians of the City of Philadelphia;

WHEREAS, it is incumbent upon the government of the City of Philadelphia to ensure that agencies directly responsible for public safety have the proper support from the government and its agencies; and that all civilians have an equal degree of faith in those agencies to deal with their complaints in a fair, equitable and timely manner;

WHEREAS, Executive Orders 1-80, 9-93 and 7-11 established procedures for the prompt and impartial processing of complaints against the Police Department;

WHEREAS, there is a need to broaden and codify the procedures by which civilians of the City of Philadelphia can seek redress of grievances against members of the Police Department and the Police Department can investigate police misconduct;

WHEREAS, the President's Task Force on 21st Century Policing and the United State Department of Justice, through its report entitled, *Collaborative Reform Initiative: An Assessment of Deadly Force Policies and Practice in the Philadelphia Police Department*, both recommend that law enforcement agencies should establish and maintain a culture of transparency and accountability to build public trust and legitimacy;

WHEREAS, the City hopes to improve public access to civilian complaint data in a form most accessible to the general public without compromising confidentiality of the parties involved and hindering or otherwise impeding the operations and resources of the Philadelphia Police Department;

WHEREAS, the prompt response to, effective investigation of, and impartial resolution of civilian complaints of police misconduct are essential to the trust that society places in its police;

WHEREAS, numerous complaints of police misconduct have been made by civilians against some members of the Philadelphia Police Department;

WHEREAS, it is the intention of this Executive Order to preserve the autonomy of the Police Commissioner's exercise of duties, while mandating procedures equitable to both civilians and police personnel for resolving civilian complaints of police misconduct.

NOW THEREFORE, by the power vested in me in accordance with Section 3-100(h) of the Philadelphia Home Rule Charter, the following amended guidelines for the processing of complaints of police misconduct by members of the Philadelphia Police Department, and the study, review, and disposition of said complaints, are hereby ordered.

SECTION 1. CIVILIAN COMPLAINTS

- a. All civilian complaints against a police officer ("CCR") shall be received, investigated, and disposed of in accordance with the procedures set forth herein, and complainants shall be notified of actions taken by the Police Commissioner.
- b. A CCR shall be distinguishable from an independent internal investigation initiated from within the Department. For purposes of this Order, a CCR and the subsequent investigation shall only include those complaints originated by one or more civilians, whereby the Department has not otherwise initiated an independent internal investigation. In the event a CCR, or portion thereof, is or becomes the subject of a separate internal investigation, the CCR shall be merged into the internal investigation and shall be classified as an internal investigation and the complainant shall be notified.
- c. Copies of complaint forms entitled "Civilian's Complaint Report," published in English, Spanish, Chinese, Vietnamese, and other language versions as shall be necessary to provide broad and inclusive access to this complaint procedure, shall be made available via the Philadelphia Police Department website and supplied in sufficient quantities to all police districts and units, the Philadelphia Commission on Human Relations, the Police Advisory Commission, (each a "receiving agency"), the District Attorney's Office, and any community-based organization upon request. Complainants may submit completed forms to any of these offices or agencies.

Each of the receiving agencies shall maintain a control log to track the number of forms provided to complainants and collected, as set forth in subsection d of this Section 1. The District Attorney's office is requested to maintain such records as it deems necessary of such CCRs. Interpreters and persons with needed literacy skills shall be made available, as provided in Philadelphia Police Directive No. 7.7 regarding access to police services for individuals with limited English language proficiency, as needed, throughout the complaint and investigation process. Such persons shall not be sworn currently employed police officers.

- d. The CCR form shall contain a statement to the effect that the filing of a complaint will not necessarily result in a criminal investigation, but that an Internal Police Investigation will be initiated. The CCR form shall also include the address and telephone number of the Internal Affairs Division, and a summary of the procedures and timetable established by this Order for the conduct of investigations and notification to the complainant. Each complainant shall receive a copy of the CCR at the time it is filed with the receiving agency. Not later than twenty-four (24) hours after the CCR is filed with the receiving agency, the said agency shall send a copy of the CCR to the Police Department (if received by an agency outside the Department) and to the District Attorney's Office. If a CCR is received by the District Attorney's Office, that office is requested to forward it promptly to the Police Department.

The control log maintained by the receiving agency shall show the name of the complainant (except in the case of anonymous CCRs), the date and time the CCR form was received from the complainant, and whether the complainant left the form with the receiving agency to be officially filed. The log shall not show the name, badge number, or other descriptive information relating to any police officer(s) complained of. The Police Department shall keep a master file of all forms received and the offices or agencies from which they were received. Such control logs and master list shall be available for viewing by the public, subject to redaction as provided in Section 11(a)(4).

- e. The Internal Affairs Division of the Police Department shall be designated as the central control agency for all cases of civilian complaints against members of the Police Department.
- f. Police Department personnel shall inform any person who wishes to make a complaint against a police officer of the existence of the formal complaint procedure established by this Executive Order and shall refer such persons to the various locations, including the nearest location, where the CCR may be obtained and filed.
 - 1. Police Department personnel shall accept anonymous CCRs and in such cases shall follow the procedures in Section 3 of this Order.
 - 2. Police Department personnel shall provide a CCR to anyone requesting such forms, without requesting or requiring identification.
 - 3. When dealing with a possible complainant, Police Department personnel shall maintain a professional demeanor and take no actions to intimidate, coerce or otherwise dissuade a complainant from submitting a CCR.
- g. The Police Department shall promulgate specific procedures for the recording and processing of CCRs against members of the Police Department in accordance with this Executive Order by its effective date. The Police Department shall also prepare, publish and distribute CCRs in accordance with this Executive Order by its effective date.

SECTION 2. PROCEDURES FOR THE INVESTIGATION OF COMPLAINTS

- a. All CCRs concerning police misconduct which are filed shall be received, investigated, and disposed of in accordance with the procedures set forth in this Section 2, except as provided in Sections 4 (relating to Complaints Lacking Any Merit), 5 (relating to Traffic or Parking Citation Complaints), 6 (relating to Right to Know Complaints), 7 (relating to Verbal Abuse or Lack of Service Complaints) and 8 (relating to Priority of Criminal Investigations) of this Executive Order.
- b. Upon receipt of the CCR, the Commanding Officer of Internal Affairs shall promptly assign it for investigation to a member of Internal Affairs, who shall be responsible for the investigation of the alleged incident. All such investigations shall be initiated by, and insofar as practicable, carried out by the staff of Internal Affairs. The staff of Internal Affairs shall have direct responsibility for all such investigations. No such CCR shall be referred for investigation to the commanding officer of the police officer against whom the CCR has been lodged, or to any other officer of the same command; provided however, that Internal Affairs may refer certain verbal abuse or lack of service complaints to the Inspector of the unit to which the accused officer is attached, where appropriate pursuant to Section 7 hereof. Internal Affairs shall monitor and review such investigations and, where necessary, take appropriate action.
- c. The investigation of the CCR by Internal Affairs shall include, but not be limited to, the following:
 - 1. Interviews with the complaining witness, the alleged victim of police misconduct (if other than the complaining witness), and all other witnesses to the incident who are indicated on the CCR form;
 - 2. Interviews with the police officer(s) against whom the CCR is lodged and all

- other police officers witnessing or involved in the alleged incident;
3. Interviews with all other witnesses to the alleged incident who become known to the investigating officer as a result of the investigation;
 4. Examination of the scene of the alleged incident, when appropriate;
 5. Viewing, analysis, and preservation of any and all evidence submitted by the complainant or witnesses or otherwise discovered during the investigation including, but not limited to, photographs, video recordings, medical records, and any reports of property damage;
 6. The gathering of all pertinent Police Department forms, analyses, technical reports, laboratory results, tapes and transcripts of telephone calls, and radio transmissions;
 7. If a criminal complaint has been lodged against any witness or participant in the event, a review and analysis of the investigative file compiled by the Police Department and or the District Attorney's Office in connection with such criminal complaint, when available;
 8. Such other investigative steps as may appear appropriate in the discretion of the assigned investigator, whose responsibility it shall be to record each step in the investigation and the result thereof in an Investigation Report.
- d. The assigned investigator shall attempt to secure written statements from all participants in, and witnesses to, the alleged incident, but where any witness or participant is unwilling to make a signed written statement, the assigned investigator shall provide a summary of the oral statement, if any, provided by such participant or witness. Where a written statement is given and signed by a participant or witness, the assigned investigator shall provide the person making the statement with a copy.
 - e. When a complainant is unable to identify the police officer against whom a complaint is lodged by name or badge number, the assigned investigator shall make every effort to assist the complainant in making a positive identification of the police officer.
 - f. All investigations shall be completed by Internal Affairs and the Investigation Report prepared within ninety (90) days from the date of filing of the CCR, except for extenuating circumstances stated in the Investigation Report and approved by the Police Commissioner or the Commanding Officer of Internal Affairs. The Investigation Report shall include the written recommendation of the investigator regarding the validity of the CCR.
 - g. Within thirty (30) days of the completion of an investigation, the ranking officer of Internal Affairs shall review the Investigation Report and upon giving approval thereof forward the Investigation Report, the entire investigation file and the ranking officer's written conclusion as to the occurrence and nature of the misconduct, if any, to the Police Commissioner. If the Investigation Report is disapproved by the ranking officer of Internal Affairs it will be revised accordingly and resubmitted to such ranking officer until it receives approval.
 - h. If extenuating circumstances necessitate an extension of time, the complainant (as well as the accused police officer) shall be notified of this fact and the reason therefor.

SECTION 3. ANONYMOUS COMPLAINTS

- a. When a member of the Police Department is approached by a complainant wishing to make an anonymous complaint concerning allegations of misconduct, the individual receiving the complaint shall notify the anonymous complainant that it is in the best interest of a full and complete investigation for the complainant to be identified and interviewed by the assigned investigator.
- b. If the anonymous complainant nevertheless wishes to remain anonymous, the individual receiving the complaint shall attempt to elicit all facts which the complainant can provide and shall record and process the CCR pursuant to Section 2 hereof, to the extent possible.

SECTION 4. COMPLAINTS LACKING ANY MERIT

If the assigned investigator of Internal Affairs, with the agreement of the ranking officer of the Internal Affairs Division, determines that the facts stated in the CCR, if accepted as true in all respects and interpreted in the light most favorable to the complainant or the alleged victim of police misconduct (if other than the complainant), disclose no improper behavior on part of the police officer against whom the CCR is lodged, the ranking officer of the Internal Affairs Division may terminate the investigation. The Police Commissioner shall cause notice of the determination to be given to the complainant and to the alleged victim of the misconduct (if other than the complainant), or to the representative designated in the CCR.

SECTION 5. TRAFFIC OR PARKING CITATION COMPLAINTS

If the assigned investigator of Internal Affairs, with the agreement of the ranking officer of the Internal Affairs Division, determines that a CCR concerns the issuance of a traffic or parking citation, and the facts stated in the CCR, if accepted as true in all respects and interpreted in the light most favorable to the complainant or the alleged victim of police misconduct, disclose no improper behavior on the part of the officer against whom the CCR was lodged, the ranking officer of the Internal Affairs Division may terminate the investigation. The Police Commissioner shall cause notice of the determination to be given to the complainant with instructions that the proper procedure to dispute a traffic or parking violation is to appeal the citation to the appropriate forum as indicated on the complainant's copy of the citation. If any improper behavior on part of the police officer is disclosed, the CCR will be investigated according to Section 2 of this Executive Order.

SECTION 6. RIGHT-TO-KNOW COMPLAINTS (65 P.S. § 67.101, *et seq.*)

If the assigned investigator of Internal Affairs, with the agreement of the ranking officer of the Internal Affairs Division, determines that a CCR concerns the denial of or the delay in responding to a Right-to-Know request authorized under Pennsylvania law, and the facts stated in the CCR, if accepted as true in all respects and interpreted in the light most favorable to the complainant, disclose no improper behavior on the part of the officer against whom the CCR was lodged, the ranking officer of the Internal Affairs Division may terminate the investigation. The Police Commissioner shall cause notice of the determination to be given to the complainant with instructions that the proper procedure to appeal Right-to-Know disputes is to appeal the Philadelphia Police Department's response, or lack thereof, to the appropriate forum as indicated in the Pennsylvania Right-to-Know Law, 65 P.S. § 67.1101. If any improper behavior on part of the police officer is disclosed, the CCR will be investigated according to Section 2 of this Executive Order.

SECTION 7. VERBAL ABUSE OR LACK OF SERVICE COMPLAINTS

- a. If the assigned investigator of Internal Affairs, with the agreement of the ranking officer of the Internal Affairs Division, determines that the facts stated in the CCR, if accepted as true in all respects and interpreted in the light most favorable to the complainant or the alleged victim of police misconduct (if other than the complainant), would constitute verbal abuse or lack of service only, and that it is the "first complaint" of such conduct against the officer(s) named, the ranking officer of the Internal Affairs Division shall refer the CCR to the Inspector of the officer against whom the CCR was lodged.

The goal of the Inspector's investigation shall be to remedy the actual or perceived offensive behavior of the police officer against whom a CCR has been lodged in the most efficient and prompt manner possible. To accomplish this goal, the Police Department shall be prohibited from taking any formal disciplinary action against a police officer for the "first complaint" received for verbal abuse or lack of service in a two (2) year period.

- b. For purposes of this Order, the assigned Internal Affairs investigator shall determine the "first complaint" status by reviewing the Internal Affairs history of the officer during the two (2) years prior to the date of current CCR. If an officer has any CCRs alleging verbal abuse or lack of service during this time period, the current CCR shall be deemed a second or subsequent complaint and shall be investigated and disposed of pursuant to Section 2 of this Executive Order, including possible discipline.

Prior to the execution of this Executive Order, the Police Department has implemented appropriate policies and procedures to ensure that officers subject to allegations of verbal abuse or lack of service receive an in-depth review and such advice, instructions and other useful feedback regarding the complaint as will enable them to avoid similar complaints in the future.

- c. The procedures for disposition of such "first complaints" shall be the following:

1. Upon receipt of a CCR from the ranking officer of the Internal Affairs Division, the Inspector of the police officer against whom the CCR was lodged shall contact and interview the complainant, and the complainant's witnesses, if possible, to confirm the facts of the case.

1. If the Inspector determines in the initial investigation that any aspect of the CCR exceeds the scope of verbal abuse or lack of service, the CCR shall be referred back to Internal Affairs to be investigated and disposed of pursuant to Section 2 of this Executive Order. Additionally, if upon review the Inspector determines that the CCR states a claim of verbal abuse or lack of service motivated by animus based on race, color, gender, religion, national origin, age, ancestry, sexual orientation, disability or gender identity, the CCR shall be referred back to Internal Affairs to be investigated and disposed of pursuant to Section 2 of this Executive Order.

2. The Inspector shall schedule a meeting with the police officer, his or her commanding officer and any other persons the Inspector deems necessary, to discuss the facts of the CCR. At such meeting the officer will be able to convey his or her version of the incident.

3. At the conclusion of the meeting, the Inspector shall provide the officer with his or her opinion of the incident and the alleged conduct of the police officer. The Inspector shall then offer his or her advice, instructions and other useful feedback regarding the CCR and the officer's actual or perceived behavior, demeanor or conduct, so as to assist the officer in avoiding any similar CCRs in the future.
 4. The complainant shall be notified in writing that a meeting was held with the police officer against whom the CCR was lodged, at which the officer's conduct was discussed, and the case will be closed out.
- d. Second or subsequent CCRs alleging verbal abuse or lack of service against the same officer within the two (2) year period following the date of the complaint amounting to verbal abuse or lack of service as set forth above shall be investigated and disposed of pursuant to Section 2 of this Executive Order, including possible discipline.

SECTION 8. PRIORITY OF CRIMINAL INVESTIGATIONS

- a. In the event that the complainant or alleged victim of police misconduct (if other than the complainant) has been arrested and charged with a criminal offense or offenses based upon the events on which the CCR is founded, the investigation and disposition of the CCR shall conform to the procedures established in this Order. However, the complainant or the alleged victim of police misconduct may elect not to give a written or oral statement either to the assigned investigator or before the Police Board of Inquiry, or both, until final disposition, including appeal, of all such criminal charges. In the event of such an election, the investigation shall remain open until such criminal charges have reached a final disposition, including appeal, and a new opportunity has been given to the complainant or alleged victim to make such a statement.
- b. In the event that a prosecutorial agency notifies the Police Commissioner that the officer who is the subject of the CCR is under criminal investigation for the offense complained of in the CCR, or in the event that a police officer is arrested for the offense complained of in the CCR, the investigation and disposition of the CCR shall conform to the procedures established by this Order. Where criminal charges are not resolved or the criminal investigation is not complete prior to the Commissioner or his appointed delegate's final determination of the CCR, the Commissioner shall reevaluate such final determination within fifteen (15) days of the resolution of the criminal charges or the closing of the criminal investigation. A criminal investigation shall be deemed closed upon written notice from the prosecutorial agency. The Commissioner may affirm, modify or reverse the prior determination in light of the outcome of the criminal charges or criminal investigation, or may reopen the departmental investigation which shall conform to the procedures set forth in this Executive Order. A brief statement by the Commissioner supporting the decision upon reevaluation shall be transmitted to the complainant or alleged victim of police misconduct (if other than the complainant), in the manner prescribed by Section 9(d) hereof.
- c. If the initiation or completion of an investigation is delayed due to possible or pending criminal charges as detailed in Sections 8(a) or (b) hereof, the time period mandated by this Executive Order for the completion and disposition of the investigation may be extended for the period of the delay.

SECTION 9. REVIEW AND DISPOSITION OF COMPLAINTS

Except for those CCRs handled solely pursuant to the provisions of Sections 4 (relating to Complaints Lacking Any Merit), 5 (relating to Traffic or Parking Citation Complaints), 6 (relating to Right to Know Complaints), or 7 (relating to Verbal Abuse or Lack of Service Complaints), and not the provisions of Section 2, upon receipt of the file and the findings and conclusions of the ranking officer of the Internal Affairs Division, the Police Commissioner or a Deputy Commissioner assigned by the Commissioner shall review the entire file and determine the appropriate disposition of the CCR in accordance with the following provisions:

a. Criminal Misconduct.

In every case in which the Commissioner or his appointed delegate determines that there are reasonable grounds to believe that misconduct rising to the level of a crime has occurred, without regard to any person's credibility, the Commissioner shall refer the matter to the District Attorney or the U.S. Attorney for consideration and prosecution unless prosecution has been previously initiated. Whether misconduct rises to the level of a crime shall be determined by reference to the Pennsylvania Crimes Code, Federal criminal statutes, and or regulations. Regardless of whether the District Attorney or U.S. Attorney initiates or declines prosecution, the Commissioner or his appointed delegate shall impose such sanctions as the Commissioner deems appropriate.

b. Non-Criminal Misconduct.

In every case in which the Police Commissioner or his appointed delegate determines that there are no reasonable grounds to believe that misconduct rising to the level of a crime has occurred, the Commissioner shall, in his discretion, (i) make a finding that noncriminal misconduct has occurred, and impose such sanctions as the Commissioner shall deem appropriate; (ii) refer the CCR to the Police Board of Inquiry for a hearing; or (iii) make a finding that no misconduct has occurred and close the file.

c. Disciplinary Action.

In every case in which the Police Commissioner or his appointed delegate determines that misconduct has occurred, the Commissioner shall impose sanctions which are commensurate with the seriousness of the misconduct, taking into account the prior history of the officer in question. Sanctions shall range from a reprimand to dismissal from service.

d. Notice

The disposition of the CCR, including any disciplinary action, shall be communicated in writing, by certified mail, to the officer against whom the CCR was lodged, the complainant and the alleged victim of police misconduct (if other than the complainant), or such person's representative as may be designated in the CCR; and a copy shall be delivered to the District Attorney's Office. The notification shall inform the person to whom it is given that the entire file is available for review, subject to redaction in accordance with Section 11(a)(4).

e. Except for extenuating circumstances stated in the file, the determination of the Police Commissioner and the notice prescribed in Section 9(d) shall be made within forty-five (45) days from the receipt of the file by the Police Commissioner.

- i. In those instances in which the Police Commissioner determines that no misconduct has occurred, the notice to the complainant and the alleged victim (if other than the complainant) shall include a summary of the investigative findings and the reason for the Police Commissioner's actions.

SECTION 10. THE POLICE BOARD OF INQUIRY

- a. Upon referral by the Commissioner of a CCR to the Police Board of Inquiry (the "Board") for hearing, the following procedures shall apply:

The Board shall schedule a hearing to be held at the earliest possible date, but not to exceed ninety (90) days from the referral of the CCR ("Civilian Complaint Hearing"). Not less than thirty (30) days' written notice of the time and place of the hearing shall be given by certified mail, return receipt requested, to the complainant and the alleged victim of police misconduct (if other than the complainant) or to his or her attorney or other representative designated in the CCR; to material witnesses identified in the investigation; to the police officer or employee charged with misconduct; and to all witnesses and participants whom the Commissioner or the Board believes may be helpful in resolving the question before the Board.
- b. The Board may grant a continuance of the scheduled hearing only upon written request by a member of the Board or the Department Advocate. If a continuance is granted, the hearing will be rescheduled to be held at the earliest date possible but not to exceed thirty (30) days from the date of the first scheduled hearing, and notice shall be given to the accused officer or employee and any witnesses by certified mail, return receipt requested.
- c. Hearings shall be informal and strict rules of evidence shall not apply. The assigned investigator and any officer or employee against whom charges have been placed shall attend. Testimony under oath shall be received from all persons who appear and purport to have information which is material to the CCR. Any accused Police Department officer or employee may be represented by counsel or other representative and shall have the right to present evidence and to examine and cross examine witnesses. An audio recording and transcript of the hearing shall be made. For those hearings that are open to the public, such transcripts shall be made available to the public upon request and payment of cost. All Civilian Complaint Hearings, shall be open to the public provided that hearings that involve minor victims or allegations of sexual misconduct shall not be open to the public unless a public hearing is requested by the victim in writing. If the victim is a minor, the hearing shall not be open to the public unless the written consent of a parent with legal custody or the minor's legal guardian is also provided.
- d. The Board shall forward to the Police Commissioner or to the Commissioner's appointed delegate written findings of ultimate facts based on all of the evidence presented at the hearing. If the Board finds that a police officer engaged in misconduct, it shall also make a recommendation for disciplinary action against the police officer. If the Board finds that misconduct rising to the level of a crime has occurred, determined by reference to the Pennsylvania Crimes Code, federal statutes or regulations, it shall refer the matter to the District Attorney or the U.S. Attorney for consideration of prosecution, unless prosecution has been previously initiated. A copy of the Board's findings and recommendations, if any, shall be kept on file by the Department Advocate.
- e. Upon consideration of the Board's findings and recommendation, if any, the Police Commissioner shall make a final determination of the CCR, which, together with a brief statement of reasons in support of or in disagreement with the findings and recommendations of the Board, shall be transmitted to the appropriate parties, in the manner provided by Section 9(d) hereof.

SECTION 11. PUBLIC ACCESS TO AND MAINTENANCE OF RECORDS

Records relating to or resulting in criminal investigations and records relating to a non-criminal investigation are exempt from public disclosure pursuant to the Pennsylvania Right to Know Law (65 P.S. §67.708(16) and (17)). Therefore, public access to and maintenance of these records shall be governed by this Order.

- a. General procedure following the disposition of a CCR.
 1. Redacted copies, as defined in subparagraph 4 below, of the complete investigation, the written findings and recommendations of the Board, if any, and the Police Commissioner's final determination shall be given by certified mail, return receipt requested, or other such manner as requested, to the Complainant or authorized representative, and victim if other than the complainant, within forty-five (45) days of the Police Commissioner's final determination.
 2. To ensure openness and transparency, on a monthly basis, the Police Department shall post on the Department's website the relevant identifying information, classifications and outcomes in a format consistent with the Open Data Philly Initiative. This posting shall include a brief narrative of the complaint, investigation, investigative outcome, Police Board of Inquiry determinations. Relevant identifying information shall include district, complaint classification, finding, and reference numbers, and any other information determined by the Commissioner or his designee to be appropriate, but no portion of the posting shall include information removed from redacted copies of CCR records pursuant to subparagraph 4 below. All information posted on the Department's website shall be maintained on the website for a period of five (5) years beyond the calendar year of the disposition of the CCR.
 3. The officer against whom CCR is lodged shall receive notification of the outcome of any CCR and upon request will be provided an entire, completed CCR investigative file.
 4. For purposes of this Order, a "redacted copy" of any record is a record whereby certain personal information, medical/treatment information, and information that would compromise public safety or officer safety has been obscured, masked, or otherwise concealed from view. Such information shall include, but is not limited to, the following information:

A. Personal Information Redactions:

1. First and last names of complainants, witnesses, victims and Police Officers, except for initials.
2. Other names that could be used to identify witness or officers.
3. Unique information which could identify a witness or officer.
4. Home addresses or other specific non-business addresses.
5. License plate numbers and vehicle identification numbers.
6. Social Security Numbers.
7. Driver's license numbers.
8. Certified mail numbers.
9. Actual birth dates (age is acceptable).
10. District Control numbers.
11. Property receipt numbers.
12. Warrant numbers
13. Ticket or citation numbers.
14. Firearms serial numbers.

B. Public/Police Officer Safety Information Redactions:

1. Undercover and otherwise sensitive officer assignments.
2. Police Department assigned vehicle numbers, license numbers and vehicle identification numbers (VIN).
3. Officer payroll numbers.
4. Officer shift hours.
5. Location or lack of surveillance cameras in an area.
6. Information regarding police tactics that would endanger officer or public safety if released.
7. Any other portion of the investigative file that the Police Commissioner determines must be kept confidential in order to protect the integrity of the investigative process.

C. Medical, psychiatric and other confidential information.

In order to protect the privacy interest of all parties involved in the investigations, records or information obtained in the course of an investigation which would operate to prejudice or impair a person's reputation or security shall not be included in the investigative report or made available to the complainant or public under this section. Such information includes but is not limited to the following:

1. Medical information.
2. Psychiatric information
3. Drug and alcohol treatment information
4. Information supplied to police with the express expectation of confidentiality or anonymity.
5. Any other portion of an investigative file that the Police Commissioner determines must be kept confidential in order to protect the integrity of the investigative process.

- b. Procedures when a CCR is being reviewed by any prosecutorial agency.

1. The Police Department shall provide a copy of the entire, completed civilian's complainant investigative file to any local, state or federal prosecutorial agency within seventy-two (72) hours following receipt of a written request from the agency.

a. Ongoing Investigations

During the investigation of any CCR and upon receipt of a written request from any local, state or federal prosecutorial agency, the assigned police department investigator shall provide to the prosecutorial agency any requested information within twenty-four (24) hours after receipt of the request.

1. If the incident which is subject of the CCR has resulted in a criminal investigation conducted by a prosecutorial agency or a criminal prosecution for any of the parties, the record of the complaint shall not be posted on the Departmental website until such time as the criminal charges have been resolved by verdict in the trial court or the prosecutorial agencies involved in the investigation have notified the Police Commissioner that the criminal investigation is closed. However, upon request, records will be provided to any other prosecutorial agency, the police officer against whom the CCR is lodged, the complainant, and the victim, if other than the complainant.

c. Procedures involving anonymous CCRs.

The records of anonymous CCRs received pursuant to Section 3(b) above, including those for which an investigation has found no corroboration of the complainant's version of the facts shall be posted on the Departmental website as described in Section 11(a)(2) above. However, records will be provided, upon request, to the complainant, if later identified, and the victim, if other than the complainant, pursuant to Section 11(a)(1).

d. Procedures involving verbal abuse or lack of service CCRs.

The records of "first complaints" of verbal abuse or lack of service received pursuant to Section 7 shall be posted on the Departmental website as described in Section 11(a)(2) above and the disposition shall be recorded as "Officer Counseled."

e. A copy of the final determination of the Police Commissioner shall be placed in the personnel file of the officer or officers involved, together with the findings and recommendations of the Board, if any. In those instances in which a CCR is terminated prior to a hearing, a copy of the CCR and final determination of the Police Commissioner shall be placed in the personnel file of the officer or officers involved.

SECTION 12. The procedures provided in this Executive Order shall be in addition to and not in derogation of:

a. The procedures provided for preservation of the rights of police officers pursuant to the Civil Service Regulations of the City of Philadelphia; and

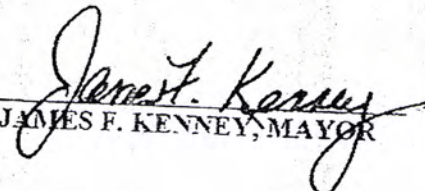
b. The responsibility of the Police Department to investigate crimes or refer cases to the proper authorities.

SECTION 13. If any section of this Order is declared to be unconstitutional or illegal, the remaining sections shall remain valid and unaffected.

SECTION 14. Executive Order No. 7-11 is hereby rescinded.

SECTION 15. This Executive Order shall be effective in sixty (60) days, provided that all preparatory steps, including those set forth in Section 1(f), shall begin immediately.

8/1/17
DATE


JAMES F. KENNEY, MAYOR