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Via Electronic Mail

January 16, 2024

Yolanda Talley
Chief
Bureau of Internal Affairs
Chicago Police Department
3510 South Michigan Avenue
Chicago, IL 60653

Re: Log Number 2023-0004935

Dear Chief Talley,

I am writing in response to your January 10, 2024 letter, regarding the Bureau of Internal Affairs' (BIA) request that the Office of Inspector General (OIG) issue subpoenas in support of BIA's investigation in Log Number 2023-0004935.

As OIG has previously communicated to BIA, the Municipal Code of Chicago (MCC) imposes strict requirements on OIG's use of its subpoena authority, and the MCC does not allow OIG to utilize its subpoena authority on behalf of other City departments. OIG may only issue a subpoena if it is conducting an investigation authorized by the MCC and, *inter alia*, is seeking documents relevant to that investigation. MCC § 2-56-040(a), (d). Unless OIG is conducting an investigation, it cannot issue subpoenas. Therefore, OIG cannot issue subpoenas at BIA's request in support of an investigation conducted solely by BIA.

OIG remains open to the possibility of conducting joint investigations with BIA. Such collaboration would require clarity and agreement between OIG and BIA on questions including whether and how a lead agency would be designated, how disagreements regarding factual findings and legal conclusions would be resolved, who would have final decision authority regarding the outcome of the investigation, and who would have final decision authority regarding the final report and recommendations. These questions are foundational to OIG's duty, pursuant to both the MCC and governing professional standards, to conduct independent and impartial investigations. BIA has provided a partial response to OIG's questions, but BIA's response leaves significant issues unresolved. OIG welcomes ongoing discussion regarding these issues, and OIG Deputy Inspector General George Lauder and BIA Deputy Chief Traci Walker continue to have fruitful discussions on these matters.

However, it does not yet appear that an agreement is near-at-hand that would resolve OIG's questions regarding the conduct of joint investigations. Therefore, BIA's options with regard to log

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number 2023-0004935 remain as OIG has previously communicated to BIA: BIA can continue its investigation, subject as always to OIG's oversight pursuant to MCC § 2-56-230(c)—indeed, the investigation has continued as OIG and BIA have discussed the prospect of joint investigations. It is OIG's understanding that BIA has already scheduled subject interviews in the coming weeks. Alternatively, if it is BIA's assessment that it is unable to complete a thorough investigation, BIA can refer the investigation to OIG.

Although BIA does not have subpoena authority, OIG again emphasizes that to the extent any documents or evidence relevant to BIA's investigation is in the custody and control of a CPD member, members have an obligation to provide it upon BIA's request, pursuant to General Order G08-01, section IV.D.4 (members "will cooperate with any ongoing administrative Log Number investigation and with personnel from the COPA, BIA, and Accountability Sergeants including, but not limited to...providing all requested documents and evidence under the Department member's custody and control"). Further, to the extent that BIA had hoped to utilize subpoenas to obtain historical electronic communications relevant to the investigation, OIG notes that its subpoena authority is significantly circumscribed by constitutional and statutory authority in its ability to reach the content of stored communications.

OIG looks forward to ongoing discussions regarding the conduct of joint investigations with BIA. If you have additional questions, please feel welcome to contact me.

Respectfully,



Deborah Witzburg
Inspector General
City of Chicago

cc: George Lauder, Deputy Inspector General for Investigations, OIG
Nathan Wackman, General Counsel, OIG
Bradley Snyder, Associate General Counsel, OIG
Scott Spears, Acting General Counsel, CPD
Deputy Chief Traci Walker, BIA, CPD