



**REPORT TO THE BOARD OF
COMMISSIONERS FOR THE
CHICAGO PARK DISTRICT
REGARDING THE LIFEGUARD
INVESTIGATION AND
CORRECTIVE ACTIONS**

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EXECUTIVE SUMMARY¹

On March 19, 2020, the Office of Inspector General for the Chicago Park District (“OIG”) began investigating two complaints from women who previously worked as lifeguards for the Chicago Park District (“CPD”). The first woman (hereinafter referred to as Complainant One) alleged that during her time as a lifeguard at Oak Street Beach she was subjected to sexual harassment, assault, hazing, bullying, retaliation, and related misconduct. The second woman (hereinafter referred to as Complainant Two) alleged that during her time as a lifeguard for the CPD she was subjected to sexual assault and sexual harassment and that there was a culture of sexual violence, sexual harassment, and a “Code of Silence” in the CPD (hereinafter the two complainants will be referred to collectively as “the Original Complaints”).² In May 2021, the OIG retained the law firm of Franczek P.C. (“Franczek”) to assist with the investigation. On September 20, 2021, the Board of Commissioners for the CPD (“the Board”) retained a team of attorneys at Arnold & Porter Kaye Scholer LLP (“A&P”) led by Valarie Hays, a partner at A&P, to investigate three specific issues:

- The sufficiency and timeliness of the CPD’s response to the Original Complaints;
- The status of the OIG’s investigation of the Original Complaints and the allegations made by the additional victims and witnesses identified during the investigation of the Original Complaints (hereinafter referred to collectively as “the Lifeguard Complaints”); and
- The corrective actions taken to date by the CPD.

A&P was retained to conduct an independent investigation. While the Board oversaw the investigation and the CPD provided assistance, A&P had full discretion regarding the appropriate investigative steps. Notably, A&P was not tasked with conducting the investigations of the alleged offenders identified in the Lifeguard Complaints or assessing the merits of the investigative decisions. The OIG, with the assistance of its outside counsel, Franczek, is conducting these investigations. Additionally, newly reported complaints of sexual assault, unrelated to the Lifeguard Complaints, currently are being investigated by the OIG. New complaints of sexual harassment, workplace violence, and discrimination currently are being investigated by the CPD’s Human Resources (“HR”) Department.³

¹ This report contains graphic content and language that may be offensive.

² We recognize the term “Original Complaints” is imprecise. We understand that there may have been victims over the years and many unreported complaints. We use the term merely to reference the first two complainants who brought widespread attention to this issue.

³ We understand that the CPD is in the process of developing new protocol for the reporting and investigation of sexual misconduct, sexual harassment, workplace violence, discrimination, and related misconduct.

A&P's scope of work also does not include making recommendations on employee discipline. Those decisions rest with CPD management. Finally, A&P was not retained to conduct a CPD culture assessment, but during our collection and review of corrective action information, we obtained historical information about the CPD's workplace culture, particularly as it pertains to lifeguards.

We summarize our findings below:

Policy Violations

- We found sufficient evidence that Michael Kelly, General Superintendent and CEO of the CPD during all relevant times, violated the CPD's Policy on Sexual Harassment by not reporting Complainant One's allegations to the Deputy Director of HR within five days of receiving them, and he violated CPD's Violence in the Workplace Policy by not immediately reporting potentially dangerous situations.⁴ He first received the allegations from Complainant One's parents on August 30, 2019. He then received the allegations from Complainant One herself on February 7, 2020. Mr. Kelly provided the Original Complaints to the OIG⁵ on March 19, 2020, over six months after he originally received Complainant One's allegations from her parents and shortly after a representative from the Mayor of Chicago's Office emailed Complainant Two's allegations to him.
- We did not find evidence that Mr. Kelly initiated any investigation into Complainant One's allegations between August 30, 2019 and February 7, 2020.
- We found evidence inconsistent with Mr. Kelly's public statements and his statements to Complainant One that when he received her allegations on February 7, 2020, he always planned to turn the complaint over to the OIG for investigation. A written timeline of events, which was prepared based on information Mr. Kelly provided orally to a staff member in April 2021 to brief the Mayor's Office, indicates that he believed "[a]lthough disturbing, the information in the letter did not warrant a referral to the Inspector General's Office."
- Mr. Kelly represented to A&P, consistent with his public statements, that between February 7, 2020 and March 19, 2020, he directed his management team, specifically Alonzo Williams, Chief Programs Officer, and Eric Fischer, Assistant

⁴ In March 2020, the CPD's HR Department was designated as the department responsible for conducting investigations of sexual assault and harassment, equal employment opportunity policy violations, and workplace violence.

⁵ At Mr. Kelly's request, the OIG agreed to investigate the Original Complaints despite the fact that they were outside the OIG's typical investigative scope.

Director of Recreation, to conduct an initial investigation related to Complainant One's allegations. Other than Mr. Williams' and Mr. Fischer's uncorroborated statements that Mr. Fischer requested a database check for other similar complaints against lifeguards, there is no evidence that Mr. Williams or Mr. Fischer investigated Complainant One's allegations, let alone any investigation that should have taken 41 days. Mr. Williams stated that he reported back to Mr. Kelly after approximately five days that they did not find any evidence of prior complaints. Mr. Fischer estimated that it took two or three days.

- We found sufficient evidence that Mr. Williams violated the CPD's Policy on Sexual Harassment by not reporting Complainant One's allegations to HR within five days of receiving them, and he violated CPD's Violence in the Workplace Policy by not immediately reporting potentially dangerous situations. Mr. Kelly forwarded to Mr. Williams the email from Complainant One's parents on August 30, 2019 and wrote, "Take a look and let's discuss." Mr. Kelly also handed Mr. Williams a hard copy of the email and attachment that Complainant One sent to Mr. Kelly on February 7, 2020, at which time Mr. Williams read the entire document. Mr. Williams had two separate opportunities to report the allegations to HR or otherwise take prompt corrective actions in response to the allegations. Both times, he failed to do so.
- Complainant One personally emailed Mr. Fischer a copy of her allegations on February 7, 2020. Mr. Fischer never reported the complaint to HR or anyone else. Mr. Fischer's position is that he did not see this email in his inbox, even though he admitted to A&P that he was very good about checking his email. The first time Mr. Fischer disclosed that he personally received the complaint was during the OIG investigation in August 2020 when he was asked to search for and produce all emails he received from Complainant One (who had informed the OIG that she had sent her complaint to Mr. Fischer and Mr. Kelly). Mr. Williams also reported that he described Complainant One's allegations to Mr. Fischer so Mr. Fischer could initiate a database search for similar complaints against lifeguards. Mr. Williams said he described the complaint to Mr. Fischer as containing allegations of lifeguard bullying, hazing, and drinking on duty. Mr. Fischer admitted that Mr. Williams told him there was a complaint about senior lifeguards "rotting" other lifeguards (which is a form of bullying, as detailed below). A&P did not obtain forensic evidence to refute Mr. Fischer's claim that he never opened the email from Complainant One. However, bullying, hazing, and drinking on duty violated the CPD's Code of Conduct. The Code of Conduct requires that a supervisory employee take sufficient disciplinary action against an employee who has violated the Code of Conduct. The purported limited nature of Mr. Fischer's inquiries in response to the information he admittedly received from Mr. Williams is not aligned with the spirit of this policy. It also is contrary to the Violence in the

Workplace Policy, which requires supervisors to report potentially dangerous situations to the HR Manager.

- We found sufficient evidence that Adam Bueling, Manager of the Beaches and Pools Unit, violated the CPD's Policy on Sexual Harassment by not reporting Complainant Two's allegations to HR within five days of receiving them, and he violated CPD's Violence in the Workplace Policy by not immediately reporting potentially dangerous situations. He first received the allegations from Complainant Two via email on March 9, 2020, and he admitted to A&P that he read the email around the time he received it. He never reported the complaint to HR or any other department or supervisor. As Mr. Bueling acknowledged, the first time he disclosed that he received the complaint was during the OIG investigation in August 2020, over five months later, when he was asked to search for and produce all emails he received from Complainant Two (who had informed the OIG that she sent her complaint to Mr. Bueling).

Status of OIG Investigation of the Lifeguard Complaints

In addition to investigating management's response to the Original Complaints, A&P also reviewed the status of the OIG's investigation of the Lifeguard Complaints, as detailed in Section II(B) of this Report. The CPD Code requires that the OIG provide a justification for any investigation that exceeds six months.⁶ It has taken the OIG considerably more than six months to complete the investigations of the Lifeguard Complaints and make disciplinary recommendations against the offending employees. Based on information obtained from the OIG and Franczek, A&P has identified several factors that contributed to the delay.

First, by sending the Original Complaints to the OIG, Mr. Kelly asked the OIG to take on new areas of investigation that had historically been handled by the CPD's HR Department. Specifically, prior to Mr. Kelly's request in March 2020 that the OIG investigate the Original Complaints, the OIG did not handle sexual assault, sexual harassment, or workplace violence investigations. The CPD's policies and procedures required these investigations to be handled by the HR Department. As a result, the OIG's staff members were not trained on how to handle investigations of this nature, magnitude, and broad scope. Second, there was a high turnover in OIG leadership during the course of this investigation. Finally, there were interview scheduling challenges caused by the pandemic, seasonal employment, and uncooperative witnesses. These factors have contributed to substantial investigative delays, but we found no evidence of intentional interference with the OIG's investigation of the Lifeguard Complaints.⁷

⁶ CPD Code, Chapter 2, § D.9.

⁷ Relatedly, A&P found no evidence that Nathan Kipp, the former Deputy Inspector General and Interim Inspector General of the CPD, was terminated in an effort to impede the OIG's investigation of the Lifeguard Complaints. It is beyond the scope of A&P's review to assess the merits of the employment decision, but Elaine Little, the former Inspector General of the CPD, informed A&P that she initiated Mr.

The OIG currently has approximately 27 open investigations arising from the Lifeguard Complaints.⁸ The OIG prioritized the allegations related to sexual assault and abuse, and with a few exceptions related to uncooperative alleged victims and uncorroborated allegations, those matters are resolved and the substantiated complaints are reported in the OIG’s Third Quarter Report. Most of the remaining open investigations relate to alleged sexual harassment and inappropriate comments to women, hazing, bullying, and intoxication while on duty. Some of these investigations face challenges related to obtaining sufficient corroborating evidence. Finally, the subjects are oftentimes no longer CPD employees, difficult to locate, and/or unwilling to participate in interviews.

Corrective Actions

The timing of the initiation of the corrective actions aligned in large part with the beginning of the press reports in April 2021 regarding the Lifeguard Complaints.⁹ A&P has reviewed the measures that the CPD has taken since at least April 2021 in response to the Lifeguard Complaints to improve its workplace culture, particularly within the Beaches and Pools Unit. A&P’s review of the corrective actions is addressed in Section II(C) of this Report.

Kipp’s suspension and termination. Mr. Kelly, however, did send Ms. Little a letter on or about August 6, 2021 in which he expressed concerns about a report he received related to Mr. Kipp. Ms. Little responded to this letter on August 12 and stated that she had placed Mr. Kipp on emergency suspension for reasons unrelated to the concerns raised by Mr. Kelly. Mr. Kipp and Ms. Little also have differing views about Mr. Kipp’s level of responsibility over the Lifeguard Complaints investigation at the time of his suspension.

⁸ This number is approximate. Due to the method in which the OIG logged new subjects of the investigation into its case management system (i.e., all were logged under the same case numbers as the Original Complaints) and since many allegations came from witness interviews rather than hotline reports, there was no easy way to quantify the number of subjects that still needed to be investigated. A&P, with the OIG’s assistance, compiled the open allegations by reviewing OIG interview memoranda and other case materials. A&P was informed that the OIG investigator has conducted some interviews for which she has not yet completed the interview memoranda. It is possible that additional subjects may be identified once those memoranda have been completed. Additionally, this number does not include a few additional investigations the OIG is conducting related to supervisors failing to report complaints about lifeguards to HR.

⁹ Although the closing of the pools and beaches caused by the pandemic was a reason offered by some CPD employees as a justification for the delay in corrective actions, the CPD had year-round lifeguards and hired approximately 100 seasonal lifeguards for summer 2020 (they ended up working as “social distancing ambassadors” since the beaches never opened in 2020).

I. BACKGROUND

A. Scope of Investigation

In September 2021, the Board announced that A&P, led by partner Valarie Hays, a former federal prosecutor, would investigate management's response to the Original Complaints and report on the CPD's subsequent efforts to improve the workplace culture. A&P also was asked to inquire into the current status of the investigation of the Lifeguard Complaints that is being conducted by the OIG and its outside counsel Franczek.

Between September 20 and November 1, 2021, A&P collected and reviewed over 15,000 documents in the possession of the CPD, the OIG, and Franczek. These documents included CPD and OIG policies and procedures, lifeguard and manager training materials, emails and other correspondence involving CPD management, organizational charts, interview memoranda from interviews conducted by the OIG and Franczek, records related to corrective actions taken by the CPD in response to the Original Complaints, the results of a culture survey of 50 employees in the Beaches and Pools Unit that was conducted by SEIU Local 73 in the summer of 2021, and a summary of results from a survey of 30 employees, not specific to the Beaches and Pools Unit, that was conducted by a CPD consultant, among other documents.

A&P also conducted interviews of those individuals with relevant information pertaining to A&P's three areas of inquiry. We have anonymized the names of some of the witnesses A&P interviewed, although their titles are listed below. We have not provided any information that would enable the victims of the sexual misconduct and harassment to be identified, and we did not have a need to re-interview the victims for purposes of our investigation. We have included the names and titles of the CPD management level employees who were involved in responding to the Original Complaints and the Inspectors General ("IG") who were in charge of the investigation of the Lifeguard Complaints at various points in time. Specifically, A&P interviewed the following individuals on one or more occasions:

- Michael Kelly—CPD, Former General Superintendent and CEO¹⁰
- Alonzo Williams—CPD, Chief Programs Officer
- Tim O'Connell—CPD, Deputy Chief of Workforce Development¹¹
- Eric Fischer—CPD, Assistant Director of Recreation
- Adam Bueling—CPD, Manager, Beaches and Pools Unit
- Alison Perona—OIG, Interim IG since mid-September 2021
- Elaine Little—OIG, former IG
- Nathan Kipp—OIG, former Deputy IG and Interim IG

¹⁰ The interview was conducted on October 5, 2021, shortly before Mr. Kelly resigned.

¹¹ Mr. O'Connell was the Deputy Chief Programs Officer until May 2021.

- Will Fletcher—OIG, former IG
- Avis LaVelle—Board of Commissioners, President
- OIG lead investigator on lifeguard investigation
- CPD, General Counsel
- CPD, Director of HR
- CPD, Deputy Director of HR
- CPD, HR Manager
- CPD, Internal Monitor and Senior Counsel
- CPD, Director of Communications
- CPD, Natatorium Instructor and Captain, Oak Street Beach
- CPD, Mr. Kelly’s executive assistant
- CPD’s consultants at Prescient who were retained to develop a complaint reporting and investigation process
- Two attorneys from Franczek
- Three administrative assistants from the CPD Beaches and Pools Unit

Two individuals did not respond to our request for interviews, and two individuals declined our request for first or second interviews on the terms we offered, either directly or through counsel. At the time this Report was prepared, A&P counsel was in discussions with counsel for one witness about the terms of a follow-up interview, which was not necessary for the preparation of this Report. Although A&P was not retained to conduct a survey of CPD’s current workplace culture or to provide recommendations on additional corrective actions, in the course of conducting its investigation of the three areas of inquiry, A&P reviewed and heard information that shed light on the historical workplace culture for CPD lifeguards, including through interviews that A&P conducted, attending several subject interviews conducted by Franczek, reviewing memoranda of lifeguard interviews conducted by the OIG and Franczek, and reviewing the results of employee surveys conducted by Prescient and CPD employees’ Union representatives. This information, which included the views of over 130 current and former CPD employees, provided useful background information for the discussion in Section II(C) regarding the current status of the CPD’s corrective actions.

B. Organizational Structure of the Office of Inspector General and Role of the Board

The Board is responsible for the “management and control of business and property” of the CPD.¹² The OIG is managed by an IG.¹³ The IG is responsible for the “oversight and supervision of assistants, investigators and other employees of the [OIG].”¹⁴

¹² CPD Code, Chapter 2, § A.1.

¹³ CPD Code, Chapter 2, § D.1.

¹⁴ CPD Code, Chapter 2, § D.2.

The OIG is operationally independent from the Board. The Board cannot “prevent, impair or prohibit the [IG] from initiating, carrying out or completing any investigation or review.”¹⁵ The Board, however, is responsible for appointing the IG and ensuring that the OIG has an annual budget that is sufficient to meet the needs of the OIG.¹⁶ The budget for the OIG is part of the CPD’s overall budget. The CPD prepares and its General Superintendent presents the proposed annual budget to the Board and asks the Board for approval. The General Superintendent and CPD budgetary staff, therefore, also are involved in discussions about the OIG’s budget.

The IG reports to the Board President and is required to provide the Board President and the CPD’s General Superintendent with a summary report at the conclusion of each investigation.¹⁷ With respect to the investigation of the Lifeguard Complaints, the summary reports prepared to date, which have been prepared at the conclusion of each investigation of a particular subject, have been sent to the full Board. Additionally, the IG is responsible for preparing and filing with the Board quarterly and annual reports. The quarterly reports inform the Board about the number of investigations, audits, and reviews initiated and concluded since the last quarterly report and the number currently pending. The report also lists the numbers of investigations, audits, and reviews which have not been completed within six months and the reasons for the delay.¹⁸ Each quarterly and annual report is publicly posted on the IG’s webpage after it is filed with the Board.¹⁹

The CPD Code sets forth a scope of investigative work for the OIG. Specifically, the CPD Code states, “It shall be the duty of every employee, Board member, agent, and contractor of the [CPD] to report any fraud, mismanagement, waste of funds or resources, abuse of authority, conflicts of interest, ethical violations or other improper act by another involving the [CPD] business or assets to the [OIG] or to appropriate law enforcement personnel.”²⁰ Although sexual misconduct and the other misconduct alleged in the Original Complaints could be captured under “other improper act,” in practice, prior to March 2020, the OIG did not handle these types of investigations. According to the CPD’s HR Policy and Procedure Manual, which included the CPD’s Code of Conduct (“the Code of Conduct”), Equal Employment Opportunity (“EEO”) Policy, Policy on Sexual Harassment, and Violence in the Workplace Policy, these types of investigations were supposed to be handled by the HR Department.

¹⁵ CPD Code, Chapter 2, § D.3.

¹⁶ CPD Code, Chapter 2, § D.2.

¹⁷ CPD Code, Chapter 2, § D.7.

¹⁸ CPD Code, Chapter 2, § D.9.

¹⁹ CPD Code, Chapter 2, §§ D.9 and D.10.

²⁰ CPD Code, Chapter 2, § D.6.

At the time the OIG received the Original Complaints on March 19, 2020, the IG was Will Fletcher. Mr. Fletcher remained in this position until July 2020. At that point, the Deputy IG, Nathan Kipp, was appointed Interim IG. In October 2020, Elaine Little became the IG, and Mr. Kipp returned to his position as Deputy IG. Mr. Kipp's employment with the OIG ended in mid-August 2021. Ms. Little stepped down from her position as IG on approximately September 14, 2021. Shortly thereafter, Alison Perona was appointed Interim IG. Ms. Perona was the IG between 2012 and 2015.

C. Role of General Superintendent

The Board appoints a General Superintendent who acts as the CEO for the CPD and has a number of responsibilities, including a duty to “administer and operate all facilities of the [CPD] in such manner as will provide the maximum recreation and pleasure to the people, consistent with public safety.”²¹ The General Superintendent is also responsible for supervising “all departments, divisions and offices of the [CPD]”²² and developing and administering “general measures for the welfare of [CPD] [e]mployees and their families.”²³ Mr. Kelly was the CPD's General Superintendent from 2011 until October 9, 2021. The Board suspended Mr. Kelly on October 8 2021 for his handling of the Lifeguard Complaints. He resigned on October 9, 2021. Rosa Escareno is the current Interim General Superintendent and CEO.

D. Organizational Structure of the Community Recreation Department

The CPD's Community Recreation Department is led by Chief Programs Officer Alonzo Williams. Mr. Williams reports directly to the General Superintendent/CEO. Between July 2016 and May 2021, Tim O'Connell was the Deputy Chief Programs Officer and reported to Mr. Williams. Since May 2021, Daphne Johnson has held this position. Eric Fischer (who is currently on suspension) is the Assistant Director of Recreation and reports to the Deputy Chief Programs Officer.

The CPD's Beaches and Pools Unit is part of the Community Recreation Department. The Beaches and Pools Unit oversees approximately 92 swimming pools and 24 beaches that are in use. Typically, the outdoor pools and beaches are open during the summer, and the indoor pools are open year-round. The pandemic, however, affected the schedule for 2020 and 2021. In 2020, indoor pools were open between January 1 and March 16 and then again between September 8 and November 20. In 2021, the indoor pools reopened beginning in March and April, but they closed on June 2 for the summer. The indoor pools opened again on September 7, 2021. During the summer of 2020, the beaches and outdoor pools never opened due to the pandemic. However,

²¹ CPD Code, Chapter 2, § C.2.b.

²² CPD Code, Chapter 2, § C.2.c.

²³ CPD Code, Chapter 2, § C.2.f.

approximately 300 year-round lifeguards remained employed at the CPD, and approximately 100 seasonal lifeguards were hired and ended up serving as “social distancing ambassadors.” The ambassadors enforced social distancing rules on the beaches and other CPD property. During the summer of 2021, the beaches opened on March 28, and the outdoor pools opened on June 25.

Prior to mid-August 2021, the Beaches and Pools Unit was led by Manager Adam Bueling, who reported to Mr. Fischer. CPD employee Andy Walsh is currently performing the duties of Mr. Bueling’s position while Mr. Bueling is on suspension. The Beaches and Pools Unit is also staffed with a special project manager, three assistant managers, four training specialists, a program specialist, monthly natatorium instructors, hourly natatorium instructors, and lifeguards. Additionally, there are seasonal positions, including captains, mates, and additional lifeguards. All of the beaches and the larger pools (e.g., Portage, McKinley, Palmer, and Washington) have both captains and mates. Captains serve as natatorium instructors in the non-summer months. Mates are senior lifeguards. If there is only a captain or a mate at a particular facility, that person is in charge. When they are both present at the same facility, the captain outranks the mate.

E. Relevant Policies and Procedures

Prior to March 2020, the CPD had several policies, all of which were part of the HR Policy and Procedures Manual, that addressed sexual misconduct, sexual harassment, discrimination, assault, intoxication on the job, and related misconduct. The Code of Conduct prohibited, among other misconduct: (1) sexual conduct while on duty or on park property, (2) committing, attempting or threatening physical violence, (3) employees inducing other employees to violate the Code of Conduct or commit an illegal act in connection with CPD employment, (4) stealing from other employees, (5) consuming or possessing alcohol or illegal drugs while on duty, (6) sexual harassment, and (7) retaliation against another employee for making a good-faith complaint of discrimination or sexual harassment.²⁴ The Code of Conduct also required employees to be respectful and polite while on duty or on park property.²⁵ Finally, the Code of Conduct required that “a supervisory employee shall take sufficient disciplinary action against an employee who has violated this Code...or otherwise committed misconduct requiring discipline. The failure to do so will result in disciplinary action against the supervisory employee.”²⁶

The CPD’s EEO Policy also prohibited sexual harassment and discrimination.²⁷ Additionally, the EEO Policy required supervisors to report to the Deputy Director of HR any conduct that could be

²⁴ Code of Conduct, §§ I–III, V.

²⁵ Code of Conduct, § I.E.

²⁶ Code of Conduct, § VI.B.

²⁷ CPD EEO Policy, § II.

considered discriminatory, harassing, or retaliatory.²⁸ It was HR's responsibility to investigate these complaints.²⁹ The policy further stated that a supervisor could be subject to discipline for failing to report any such conduct.³⁰

The CPD's HR Policy and Procedures Manual also had a separate Policy on Sexual Harassment. The policy prohibited "any unwelcome sexual advance or any request for sexual favors or conduct of a sexual nature....when such conduct has the purpose or effect of substantially interfering with the work performance of an employee or creating an intimidating, hostile or offensive work environment."³¹ The policy specified that "[a]n employee's work environment is not limited to the physical location where the employee performs his/her duties."³² The policy provided the following examples of conduct prohibited under the policy: "(a) sexually suggestive or offensive remarks, jokes, or rumors, (b) sexually suggestive pictures or graffiti, (c) sexually suggestive gestures, (d) verbal harassment or abuse of a sexual nature, (e) display of or reference to sexual objects, (f) subtle or direct requests for sexual favors, (g) stalking, (h) sexual assault, (i) touching, patting, or pinching, (j) sending sexually suggestive e-mail or text messages, and (k) accessing or sharing sexually suggestive sites on the internet."³³ The policy further stated, "Any [CPD] employee described in section A, who is not a member of the [HR Department] and receives a Complaint must refer it in writing to the Deputy Director of [HR] as soon as possible, but no later than five (5) business days following receipt of the Complaint. Failure to refer such complaints may result in disciplinary action."³⁴ Section A included supervisors.³⁵ The policy further stated, "All supervisors who are aware of, or reasonably should be aware of, conduct that amounts to sexual harassment, whether or not anyone complains about such harassment, but fails to report that conduct, may be subject to discipline."³⁶ The policy also set forth the steps HR would take in investigating the complaint.³⁷ Finally, the policy explained that even if the complainant "requests

²⁸ CPD EEO Policy, § V.

²⁹ CPD EEO Policy, § VII.

³⁰ CPD EEO Policy, § V.

³¹ CPD Policy on Sexual Harassment, § II.A.

³² CPD Policy on Sexual Harassment, § II.A.iii.

³³ CPD Policy on Sexual Harassment, § II.B.

³⁴ CPD Policy on Sexual Harassment, § IV.C.

³⁵ CPD Policy on Sexual Harassment, § IV.A.1.

³⁶ CPD Policy on Sexual Harassment, § VII.

³⁷ CPD Policy on Sexual Harassment, § V.

that the conduct not be investigated or be kept confidential, the supervisor or manager must still refer the Complaint to the Deputy Director of [HR]” and that “[a]ll supervisors and managers are responsible for ensuring the Complainant is not subject to any retaliation for making a Complaint.”³⁸

The CPD also had a Violence in the Workplace Policy that prohibited some of the conduct described in the Original Complaints. Specifically, the policy prohibited, among other actions: (1) causing physical injury to another person, (2) making threatening remarks, (3) aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress, and (4) committing acts motivated by, or related to, sexual harassment.³⁹ Although not mentioned specifically in the policy, some of the CPD’s training materials noted that hazing could qualify as workplace violence. The Violence in the Workplace Policy also directed employees, including managers and supervisors, to report all incidents of violence “or any potentially dangerous situation” to supervisors, the HR Manager, and where appropriate, law enforcement authorities.⁴⁰ All “potentially dangerous situations” were required to be reported “immediately.”⁴¹ The policy specified that the HR Manager will be in charge of these investigations and that the investigations should be completed “within a reasonable time period, usually not exceeding thirty days.”⁴² The policy also stated that supervisors were responsible for implementing and maintaining safe workplace practices and for communicating this policy to supervisees.⁴³

F. The Original Complaints

1. Complainant One

On August 30, 2019, Mr. Kelly received an email from the father of Complainant One, who, according to Mr. Kelly, was his friend and someone with whom he did business. The email forwarded a summary prepared by the mother of Complainant One. In the email, the father recommended that Mr. Kelly send someone to the Oak Street Beach trailer to remove a “fight song” from the wall “before press or somebody runs with it.” The father further suggested that

³⁸ CPD Policy on Sexual Harassment, § VII.

³⁹ CPD Violence in the Workplace Policy, Prohibited Conduct.

⁴⁰ CPD Violence in the Workplace Policy, Enforcement, § I.D.

⁴¹ CPD Violence in the Workplace Policy, Reporting Procedures.

⁴² CPD Violence in the Workplace Policy, Enforcement, § I.B.

⁴³ CPD Violence in the Workplace Policy, Enforcement, § I.C.

somebody “get on it quietly.”⁴⁴ In the summary from Complainant One’s mother, the mother described Complainant One’s experience as a lifeguard at Oak Street Beach that summer. First, she explained how the wall of the lifeguard room at Oak Street Beach contained the following fight song that the lifeguards had to memorize and chant every morning as they did pushups:

Cock Sucker, Motherfucker, Eat a bag of shit, cunt bag, douche bag, bite your mother’s tit. We’re the best life guards, all the others suck. Oak Street, Oak Street, Rah Rah fuck[.] Rat shit, bat shit, dirty smelly twat, 48 cunt hairs tied in a knot, eat shit, suck cock. Gobble, nibble, chant, we’re the best, we’re the best lifeguards, so fuck you!

Complainant One’s mother went on to share the following:

Lifeguards (mostly female) were regularly thrown in a 5 foot deep sand hole and then sand was thrown on them...this was both humiliating and degrading. Lifeguards were regularly threatened with hazing such as having to stand on the ledge for 5 hours straight with no relief. Many Lifeguards smoke pot on the job in [the] locker room during the day[.] My daughter was regularly called a bitch by some of the guards (along with other female guards) and at least two times, thrown against a locker by an older male guard. The whole atmosphere at Oak Street is degrading yet there is a code of silence and you are called “weak minded” if you confront the behavior. She was regularly mocked for her faith. At the banquet, awards are given for Worst Lifeguard, Sluttiest lifeguard, etc ...none of this is inspiring or noble especially when the lifeguards are commissioned with saving lives. One girl who received one of the degrading awards said she went [i]n the bathroom and cried the rest of the night. It is appalling that this is going on (and has been for quite some time from what other guards have said) especially in light of [the] Me Too movement. All of this is emotionally traumatizing and damaging.

Mr. Kelly forwarded this email from Complainant One’s parents to Mr. Williams and wrote, “Take a look and let’s discuss.” A&P did not find any evidence that Mr. Kelly or Mr. Williams reported this complaint to HR, initiated any investigation, or took any corrective actions in response to the complaint between August 30, 2019 and February 7, 2020. On February 7, 2020, Complainant One emailed Mr. Kelly and Mr. Fischer directly and reiterated the details of her experience as a lifeguard at Oak Street Beach during the summer of 2019 when she was 17 years old. Her cover email stated in part:

I worked at Oak Street Beach this past summer in 2019. I wanted to send you the report that I wrote about the events that happened this summer. There

⁴⁴ The father declined to be interviewed by A&P but volunteered that he believed that Mr. Kelly was a “tremendous human being” and that the CPD’s handling of his daughter’s complaint was “fine.”

was extreme abuse from the other lifeguards, and I do not want to see anybody else go through what I went through. I hope that change can happen with the lifeguards and the summers to come.

Complainant One attached an 11-page report to her email. The report included allegations of misconduct similar to those originally revealed by her mother, but the report provided more detail, including the names of approximately seven lifeguards who participated in the misconduct. The report explained how lifeguards acted “very abusive and unprofessional.” She further explained that the lifeguards held multiple parties during the summer after work, including a rookie initiation where guards would force rookie lifeguards (who were commonly underage) to drink alcoholic beverages and then sing the fight song in a push-up position over and over again until they sang it correctly. According to the complaint, the rookies were required to line up facing the guards at which time the guards put garbage bags around the rookies’ necks in case they needed to throw up. She explained how the guards taped two pints of beer to the rookies’ hands, and when she refused to drink the pints, one of the guards grabbed her and tried to force a bottle of vodka down her throat. She described how the guards told her that she would get “rotted” if she did not drink alcohol, meaning they would leave her out at a lifeguard post for an inappropriately long time, including up to more than six hours without a break. She said that any time she did not do what the senior lifeguards asked her to do, including if she did not sing the fight song or show up for guard games or after work parties, she would be “rotted.”

Complainant One further explained to Mr. Kelly and Mr. Fischer how she was frequently called degrading names. She wrote:

Throughout the rest of the summer the names bitch, slut, whore, pussy, and cunt became my regular name that multiple of the lifeguards called me. Respect was something I never got, no matter how well I performed as a guard. One of the mates...called almost all the rookies girl [sic] fat, and he made it clear that he did not like me by screaming at me in a very mean way and calling me a bitch more than once.

Additionally, she reported being told that if she killed herself, it would not matter and the lifeguards would laugh about it.

Complainant One also reported improper physical contact. She said one guard hit her on the back of the neck “extremely hard.” She reported that when she pushed him away, he charged towards her “and ended up slamming/throwing me into the metal wall of the guard room and called me a pussy and a bitch.” She described how her body was in so much pain when she got up and how she had a giant bruise on her leg as a result of this lifeguard’s conduct.

Additionally, she complained about the practice of the “shake and bake.” She stated that this occurred when some of the lifeguards took the last hour of work off and dug a giant hole and filled it partly with water. The other lifeguards would pick up one lifeguard and throw that lifeguard

into the hole “extremely hard” and then kick sand in that person’s face while calling them a “bitch” or a “pussy” and screaming the fight song in their face. She said one girl was thrown into the hole so hard that she had bruises on her back. She further explained that it was “always the guys grabbing the girls.”

In the report, Complainant One also described acts of bullying, including hiding her clothes and lunch on multiple occasions, throwing her bag, and breaking her glasses. She also alleged that some of the lifeguards were getting high during work hours and pressured her to get high with them. She stated that when she refused, they “rotted” her. She also explained that the lifeguards faked their drug tests with other individuals’ urine. She wrote, “I wanted to say something, but I was afraid that I was going to get treated even worse than before.”

Complainant One also described how she was forced to go to the end-of-the-year Oak Street Beach banquet. She said that she was told that if she did not go, she would be “rotted.” She described how she was scared to attend, but she went anyway. During the banquet, they gave out awards such as “Bitch of the beach,” “slut of the beach,” “Little dick,” and “Manwhore of the beach.” She wrote, “The awards that they gave were degrading and horrible. They have made multiple people cry.” She also reported that “many of the girls were grabbed in ways they should not have been grabbed.” She described how she eventually decided that she could not take it anymore and quit and when she did, one of the guards texted her and told her that she was a “bitch” and “weak minded for quitting.”

Complainant One concluded with the following remarks:

I want to report this because I feel that somebody could get hurt extremely bad....A girl could get sexually harassed or raped by one of the lifeguards that are high and not in the correct mental state. I would not be surprised if someone tried to harm themselves or even take their own life because of how badly they are treated....I honestly feel like someone is going to get killed or permanently injured because of the stupidity of the so-called professional lifeguards....Please make a change and save the next lifeguard from getting treated the way I did. Someone’s life could be at stake and I would be heartbroken if something happened to another lifeguard that was just trying to do his /her jobs.

At Mr. Kelly’s request, Mr. Kelly’s assistant sent Complainant One’s report to the OIG on March 19, 2020, 41 days after he received it.

2. Complainant Two

On March 6, 2020, Complainant Two sent a complaint to the Mayor of Chicago about her experience as a lifeguard at the CPD for the prior six years. Complainant Two emailed the same complaint to Mr. Bueling on March 9, 2020. The Mayor’s Office emailed the complaint to Mr.

Kelly on March 19, 2020. Complainant Two reported that she was sexually assaulted by a male lifeguard five years earlier when she was 17 years old and he was approximately 20 years old.⁴⁵ She said that when she tried to speak up about her experience, she was called a “kissy whore” and a “slut” by her fellow lifeguard coworkers and managers. The complaint went on to state that since that time, she had heard about and witnessed other sexual misconduct among CPD lifeguards. She wrote, “there is a huge incidence of sexual violence within the Park District – from sexual harassment to sexual assault and rape.” In describing the open culture of sexual harassment, she wrote, “[e]ven during work hours, it is commonplace for individuals to make sexually inappropriate comments and jokes to fellow coworkers. It is a toxic environment.”

She also made numerous statements describing a “Code of Silence” within the CPD and an ineffective complaint reporting and investigation/disciplinary process:

- “No one speaks up and says that [making sexually inappropriate comments and jokes to coworkers] is not okay. There is just silence. And when people do make a complaint, many managers do what they can to avoid paperwork, so it is very difficult for a report to get escalated.”
- “[T]here is little support for people who do want to file reports. It is looked down upon and people are discouraged to do it. The Park District does not provide adequate employee education or support for navigating their workplace violence system. Those who do want to speak up are met with harsh criticism.”
- “In my opinion, there are so few reports made because there is little faith in the management of the Chicago Park District Lifeguard Service. Employees see how the perpetrators of sexual violence are either getting promoted to management⁴⁶ positions or being allowed to continue working at their current positions even after complaints are made about them. When complaints do get filed, repercussions are often mild. Most often employees are transferred to another location for a few days as ‘punishment’ but then prance right back where they came from. The underlying problems are not addressed. There is what I would call a ‘Code of Silence’ in the Park District in which those in positions of authority will have each other’s backs no matter what happens.”

⁴⁵ The OIG investigator interviewed Complainant Two on March 25, 2020 and August 21, 2020. During the interviews, she provided more details regarding the alleged sexual assault. She explained that when she was 17 years old and working in the summer as a lifeguard, she attended a summer lifeguard party. She further stated that during the party a more senior lifeguard, who was approximately 20 years old, pulled her behind a garage and touched her body over her clothing without her consent and then began to kiss her. She repeatedly told him to stop throughout the encounter, but he would not stop. She further described how the encounter lasted five to ten minutes.

⁴⁶ In her letter to Mr. Bueling, Complainant Two used the word “officer” instead of “management.”

- “There is little support for employees and employees have little education about the resources that are available. Seasonal workers especially lack a voice and a support system.”

She concluded her letter with the following statement:

It is disheartening that this organization that is supposed to represent the City of Chicago is rife with sexual indignities. The whole system is broken, and something must be done about it. I am writing to you today as an advocate for those whose lives are affected by sexual violence in the workplace, those who are discouraged to speak up, and those who witness sexual violence but do not know how to act. My intention is not to point fingers at individuals but to bring awareness to a very preventable problem that is being ignored. A better system must be implemented to report and combat these issues. The problem is not individual but rather a collective indifference and inaction towards sexual violence in the workplace. It is my hope that by speaking up more people will be encouraged to speak out about what is going on. Maybe if more people know what has been happening in the Park District, more people will care. I urge you to look into this issue further in the hopes that someday things will be better.

Mr. Bueling did not respond to Complainant Two’s letter, which she emailed directly to him. Once Mr. Kelly received this letter from the Mayor’s Office, he directed his assistant to email the Original Complaints to the OIG for investigation. The OIG was led by Mr. Fletcher at the time. Since that time, the OIG and Franczek have interviewed multiple witnesses who have made allegations similar to those contained in the Original Complaints.

II. ANALYSIS

A. Sufficiency and Timeliness of the Chicago Park District’s Response to the Original Complaints

1. Response of Michael Kelly and Alonzo Williams to August 30, 2019 Email

A&P found sufficient evidence that Mr. Kelly and Mr. Williams violated the five-day reporting requirement set forth in the CPD Policy on Sexual Harassment and the immediate reporting requirement set forth in the Violence in the Workplace Policy when they failed to report the allegations from Complainant One’s parents that they received on August 30, 2019. During interviews of Mr. Kelly and Mr. Williams on October 5, 2021, A&P counsel asked them questions related to what they knew about the alleged conduct prior to receiving the email from Complainant One in February 2020. Specifically, they answered no to each of the following questions when asked by counsel:

- Prior to February 2020 when you received Complainant One’s email, did you have any reason to believe that this type of conduct was going on at the Oak Street Beach or any beach?
- Prior to February 2020, did you receive any reports about female lifeguards being called degrading names?
- Did you receive any earlier reports about female lifeguards being thrown into holes with sand thrown on them or getting a “shake and bake?”
- Had you heard before about the Oak Street Beach fight song?

Mr. Kelly also expressed to A&P that he was “surprised” and “taken aback” when he received Complainant One’s email in February 2020.

Mr. Williams agreed to participate in a second interview on October 13, during which he was asked about the August 30, 2019 email. At that time, he stated that he did not remember ever receiving the email. Upon Mr. Williams’ request, A&P counsel met with him for a third time on October 14. During this interview, Mr. Williams explained that after thinking about it further, he did remember receiving the email from Mr. Kelly. Mr. Williams further explained that he met with Mr. Kelly to discuss the August 30 email shortly after Mr. Kelly forwarded it to him. Mr. Kelly asked Mr. Williams to take care of getting the fight song removed from the wall of the Oak Street Beach facility, and Mr. Kelly said that he would handle talking to Complainant One’s father.

Mr. Williams stated that shortly after his meeting with Mr. Kelly, he gave a directive to someone to have the fight song removed from the wall of the Oak Street Beach facility. He could not remember to whom he gave the directive.

Mr. Bueling recalled that Mr. Fischer asked him to put in an emergency work order for the removal of the fight song from the wall in the Oak Street beach house and told him that the project needed to be completed that same day. Mr. Bueling also stated that Mr. Fischer indicated that the directive was coming from upper management.⁴⁷ Mr. Bueling recalled that painters came on the same day he placed the emergency order to remove the song from the wall. A&P also reviewed an “urgent” work order, dated August 30, 2019, for painting over graffiti at a facility on the lakefront.⁴⁸ Mr.

⁴⁷ According to Complainant One, the fight song was posted on a wall in the Oak Street Beach facility but in an area where you would need a flashlight to read the words.

⁴⁸ Since the work order did not specify the facility where the paint removal took place but rather included a generic location entry, it did not contain enough detail to conclusively match it to the directive at issue.

Fischer told A&P that he did not remember giving Mr. Bueling a directive to remove the fight song from a wall.

Mr. Williams confirmed that he personally did nothing further in response to the August 30, 2019 email after he gave the directive to have the fight song removed from the wall, and A&P has not reviewed any evidence to suggest Mr. Kelly took corrective actions in response to receiving these allegations of misconduct on August 30, 2019. Nevertheless, Mr. Kelly stated to the press in August 2021, when referencing the February 7, 2020 email he received from Complainant One, “The first thing I did was I responded right away.... I hadn’t even read it yet, and my reaction was that we were going to move, and we were going to move swiftly, and we are going to move passionately.”⁴⁹ Mr. Kelly also wrote in a letter, dated June 23, 2021 and posted at the time on the CPD’s website, “When I was notified of allegations of misconduct, I took immediate action, including initiating an investigation by referring the information to the Chicago Park District Office of Inspector General.”

2. Response of Michael Kelly and Alonzo Williams to February 7, 2020 Email

a. Mr. Kelly’s and Mr. Williams’ Actions With Respect to the February 7, 2020 Email Violated CPD’s Policies and Procedures.

A&P found sufficient evidence that Mr. Kelly and Mr. Williams violated the five-day reporting requirement and the immediate reporting requirement for potentially dangerous situations for a second time when they received Complainant One’s allegations. On February 7, 2020, Complainant One emailed Mr. Kelly alleging “extreme abuse from the other lifeguards” and attaching a detailed report that described a pervasive culture in the lifeguard community of abuse and harassment. Mr. Kelly showed Mr. Williams the report that same day and, according to Mr. Williams, told him not to share it with anyone. They never notified HR about the complaint. Mr. Kelly did not send it to the OIG until March 19, 2020, shortly after the Mayor’s office emailed him the second complaint. Mr. Williams told A&P that he did not report the February 2020 complaint to HR because Mr. Kelly told him that he was sending it to the OIG for investigation. The credibility of this statement is questionable in light of Mr. Williams’ lack of response to the August 2019 allegations and the evidence in subsection (c) below that Mr. Kelly did not intend at this time to send the complaint to the OIG.

b. A&P Did Not Find Evidence of a 41-Day Investigation.

Mr. Kelly represented to A&P, consistent with his public statements, that between February 7, 2020 and March 19, 2020 (“the 41-day period”), he directed Mr. Williams, who directed Mr. Fischer, to conduct an initial investigation related to Complainant One’s allegations. A&P found little evidence of investigative activity during those 41 days.

⁴⁹<https://www.nbcchicago.com/news/local/chicago-park-district-criticized-for-handling-of-sexual-misconduct-complaints/2583760/>.

Mr. Kelly told A&P that he wanted Mr. Williams to find out what was going on, investigate it, and report back to him. He also said that he wanted Mr. Williams to check to see if he could corroborate Complainant One's allegations. When A&P counsel asked if he questioned the credibility of the allegations, Mr. Kelly emphatically said no and that in his mind the complaint was fact. He further stated that this was "the normal process in any issue he would get." Mr. Kelly, however, acknowledged that he was aware of the five-day reporting requirement and that the CPD policy designated the HR Department as being responsible for conducting this type of investigation. As a justification for not following the policy, Mr. Kelly explained that he thought he was reacting more promptly and effectively by going to Mr. Williams than by going to HR or the OIG because Mr. Williams was his "number two." Mr. Kelly said that he thought his process would be a faster track to getting "immediate feedback." When asked what he expected Mr. Williams to do, Mr. Kelly said that he expected exactly what Mr. Williams ended up doing, which was to go to Mr. Fischer and find out whether there had been any similar complaints. When asked what he expected Mr. Fischer to do to acquire this information, Mr. Kelly said he expected him to conduct a paper and electronic search for documents, including incident reports, emails, or other records of complaints. He also said that he expected Mr. Fischer to interview managers in each individual region of the CPD to see if they were aware of other complaints. Mr. Kelly said that he assumed they would do this for all of the beaches, not just Oak Street Beach. Mr. Kelly acknowledged that he knew Mr. Fischer's relative was named in Complainant One's report, but he stated that this did not raise any concerns for him with respect to Mr. Fischer being involved in the alleged initial investigation. Mr. Williams also reported to A&P that Mr. Kelly flagged this issue of Mr. Fischer's relative being named when he gave Mr. Williams the complaint to review. Mr. Williams also stated that he could not do much investigation because Mr. Kelly told him not to share the complaint with anyone. Mr. Williams further stated that he assumed this meant that he should not talk to HR about the complaint.

We did not find Mr. Kelly's explanation for the 41-day delay to be credible. First, based on the evidence A&P reviewed and the information obtained from interviewees, there does not appear to be a reasonable explanation for why a search for other similar complaints by other lifeguards was a necessary prerequisite for submitting Complainant One's complaint for investigation by HR or the OIG. There was nothing A&P reviewed that precluded both inquiries from happening simultaneously. Moreover, there is no evidence that Mr. Kelly considered or directed his managers to address the most obvious time-sensitive investigative action items, including evaluating whether the continued employment of the lifeguards named in Complainant One's report posed any safety risks and taking the opportunity to interview all of the lifeguards at Oak Street Beach (and ideally the other beaches) before their term of seasonal employment ended or shortly after it ended.

Second, there was no credible evidence that Mr. Kelly received information to suggest that a 41-day investigation was conducted by his management team. Mr. Kelly, Mr. Williams, and Mr. Fischer were unable to identify a single person who was interviewed during the 41-day period. Indeed, Mr. Fischer said that he did not conduct any interviews and merely asked an administrative assistant in the Beaches and Pools Unit to conduct an electronic search for incident reports of other similar complaints. He estimated that it took at most three business days for him to receive a

response that no complaint records were found and to report that information back to Mr. Williams. He could not remember which administrative staff member he purportedly asked, but he named three possible options. A&P interviewed those three staff members, and none of them were able to corroborate Mr. Fischer's recollection. Two of the staff members said that Mr. Fischer did not ask them to run a search, and one said he did not remember Mr. Fischer asking him to run a search. Furthermore, neither CPD policies nor employee training materials directed employees to make sexual misconduct, harassment, or workplace violence complaints by filing an incident report with the Beaches and Pools Unit. Neither Mr. Fischer nor Mr. Williams asked HR, the department responsible for investigating these types of complaints, for records of similar complaints.⁵⁰ Mr. Williams likewise described Mr. Fischer making inquiries related to whether there had been other similar complaints, which he described as taking place over a period of approximately five days, not 41 days. Mr. Williams further stated that he reported back to Mr. Kelly after approximately five days that Mr. Fischer did not find evidence of other complaints.

Third, shortly after Mr. Kelly referred the Original Complaints to the OIG, he had a telephone conversation with Mr. Fletcher, Mr. Williams, and the Director of HR, to discuss the complaints. According to Mr. Fletcher, no one told him during this conversation or at any point in time that they had already conducted an initial investigation.

Fourth, Mr. Kelly did not tell Complainant One that he planned to have his management team conduct an initial investigation. Complainant One sent her email and report to Mr. Kelly shortly after midnight on the morning of February 7, 2020. The cover email referenced "extreme abuse by lifeguards." Mr. Kelly responded approximately 12 hours later by saying that he had not yet had a chance to read the report, but he took her assertions very seriously and he was forwarding the report to the OIG "for an independent investigation."

Finally, based on the evidence A&P obtained, the alleged investigation was not documented in any way until the 41-day delay in sending Complainant One's allegations to the OIG was reported in the press. Specifically, on April 27, 2021, news of the investigation related to the Lifeguard Complaints was reported in the press, which the IG believed was the result of a leak of confidential information. The allegations in the Original Complaints were reported, along with information indicating that the OIG had sustained findings against three lifeguards for sexual assault and harassment and that there were numerous ongoing investigations. It also was reported that Mr. Kelly received the complaint six weeks before he sent the complaint to the OIG.

⁵⁰ Mr. Williams stated he was uncertain whether he told Mr. Fischer about the allegations in Complainant One's report related to sexual harassment, but Mr. Williams knew about them because he admitted to reading the report. Furthermore, if Mr. Williams did not describe the fight song, the derogatory names that women were being called, or some of the more disturbing behaviors described in the report to Mr. Fischer, who was supposed to be conducting the search of similar complaints, this calls into further question the credibility of the representations about investigative activities during the 41-day period.

Mr. Williams described to A&P how Mr. Kelly had a strongly worded reaction to the press article and told Mr. Williams that they needed to figure out the timeline of what happened during those 41 days.⁵¹

Later that morning, Mr. Williams held a meeting with Mr. Bueling, Mr. Fischer, and Mr. O'Connell. All of the meeting participants agree that Mr. Williams asked them during that meeting to help him remember what had happened during the 41-day period.

Mr. O'Connell said that Mr. Williams insisted during the meeting that he had told Mr. O'Connell about the complaint. Mr. O'Connell responded by emphatically stating he was certain that had never happened.

Mr. Fischer stated that Mr. Williams first asked Mr. Fischer if he had previously discussed an assault complaint with him, and Mr. Fischer said that he was certain no such conversation took place. According to Mr. Fischer, Mr. Williams then asked if he had previously discussed a "rotting" complaint with him. Mr. Fischer said he then recalled Mr. Williams making a vague request in the past for him to check if there were prior complaints about "rotting" at four different beaches, but he did not receive any more details about the allegations. Mr. Williams confirmed that at first Mr. Fischer said he did not remember checking for complaints, but after Mr. Williams left the room briefly to take a phone call and then re-entered the room, Mr. Fischer said he remembered inquiring about other complaints. Mr. Williams could not remember whether Mr. Fischer changed his position in response to Mr. Williams changing the conduct description from assault to other misconduct.

Mr. Bueling recalled Mr. Williams saying during that meeting that he needed to explain to Mr. Kelly what investigative steps had been taken. Mr. Bueling also said that it seemed like Mr. Williams was "grasping at straws." When asked by A&P counsel whether it seemed like Mr. Fischer really remembered inquiring about other complaints, Mr. Bueling said it seemed like Mr. Fischer was "throwing Mr. Williams a lifeline." Additionally, Mr. Bueling noted that during the 41-day period, no one ever asked him, the Manager of the Beaches and Pools Unit, about any prior complaints against lifeguards.

Neither Mr. Williams nor Mr. Fischer had any documentation to support their alleged inquiries about prior complaints. One staff member who was assisting with the press response described how she asked Mr. Williams for any records that were prepared contemporaneously with the

⁵¹ According to an OIG interview memorandum, Complainant One stated that on or about April 26, 2021, Mr. Kelly also contacted her and told her that "the press is breathing down my neck and trying to screw me over." She said that he also asked her what information she had provided to the OIG. He ended the conversation by asking her to keep him "in the loop." During Mr. Kelly's interview with A&P, he denied that he asked her what information she provided to the OIG. He further stated that "keep me in the loop" was an expression he commonly used.

investigation, including meeting agendas, emails making investigative requests, or any sort of wrap up summary. He was not able to produce any such records.

The parties then decided to create an after-the-fact email summary, accurately dated April 27, 2021, memorializing the investigative steps that allegedly had been taken during the 41-day period in February/March 2020. According to Mr. O’Connell, Mr. Williams directed Mr. O’Connell to prepare this email summary and stated that it was being prepared at Mr. Kelly’s request. Since Mr. O’Connell had no involvement in an investigation during the 41-day period, he prepared the email summary based solely on information provided to him during the April 27 meeting.

Mr. Williams sent the final version of the email summary to the CPD’s Director of Communications and the CPD’s General Counsel. The email stated that Mr. Williams received a letter from Mr. Kelly in February 2020⁵² and that Mr. Kelly asked him “to look into the matter.” The email further stated that the letter contained information about “alleged ‘bullying’ at a work location, including limited breaks while working as a lifeguard during the summer of 2019.” The email did not describe any of the other allegations made by Complainant One. The email then went on to describe the actions Mr. Williams and Mr. Fischer allegedly took in response to Mr. Kelly’s alleged request:

Followed up [on] request by contacting Eric Fischer, Assistant Director of Recreation, relayed the concerns in the letter over the phone, asked if he was aware of anything. Eric said he was not aware, but would do a check of complaints, incident reports, discipline at work location and for staff at location. Eric reported that there were no incident reports, complaints, or discipline at location for summer of 2019.⁵³ In response to concerns of staff bullying, Eric Fischer and Adam Bueling prepared additional training materials...for added emphasis in preparation for Summer 2020.

Mr. Bueling later told A&P that he did not remember any significant changes to training materials for the summer of 2020. In fact, Mr. Bueling sent an email in January 2021 to HR representatives and others requesting updated sexual harassment training materials, noting that they had been using the same ones for “the past 20 years.” A staff member reported to A&P that Workforce Development was working on new sexual harassment training materials in 2020, but the materials were never finalized or rolled out.

⁵² The first draft of the email that Mr. O’Connell prepared stated that Mr. Williams received the complaint in March 2020, but Mr. Williams directed him to change it to February 2020.

⁵³ If they would have checked with HR, the department responsible for investigating these complaints, they would have learned that HR investigated at least two sexual harassment complaints in 2019, one of which involved lifeguards.

- c. A&P Obtained Evidence Indicating that Mr. Kelly Did Not Decide to Turn Over Complainant One's Report to the OIG Until After He Received the Second Complaint from the Mayor's Office.

When A&P counsel asked Mr. Kelly whether he would have sent Complainant One's report to the OIG even if the Mayor's Office had not sent him Complainant Two's report, he confirmed that it was his plan all along, consistent with his email response to Complainant One. He made a similar statement to a staff member and to the public during a press conference in August 2021.⁵⁴ A&P counsel reviewed evidence that appeared to contradict these statements. On April 27, 2021, in the hours immediately following the lifeguard story initially breaking in the press and before the details of Complainant One's allegations were public, Mr. Kelly and his staff put together a briefing for the Mayor's Office. The information Mr. Kelly provided for that briefing about Complainant One's allegations was recorded in writing by a staff member. The staff member, repeating what Mr. Kelly told her about the report he received from Complainant One, wrote in part:

February 7, 2020, Superintendent Kelly received the first letter from a former seasonal lifeguard reporting unprofessional behavior described as "bullying" among colleagues during Summer 2019. *Although disturbing, the information in the letter did not warrant a referral to the Inspector General's Office*....March 19, 2020, Superintendent Kelly received a letter from another seasonal lifeguard detailing much more severe accounts of professional misconduct including verbal and physical acts of harassment and sexual abuse. Kelly contacted Inspector General Will Fletcher immediately requesting he launch an investigation into the Chicago Park District's Beaches and Pools Unit (emphasis added).

The staff member who authored the summary also confirmed to A&P counsel that "bullying" was the word Mr. Kelly used to describe Complainant One's allegations. He also told her that the complaint did not include allegations of criminal behavior. He did not provide the staff member with a copy of the actual complaint. The staff member also confirmed that the summary's description of the second complaint as containing "much more severe accounts of professional misconduct including verbal and physical acts of harassment and sexual abuse" was provided by Mr. Kelly. After the staff member prepared the written summary of information for the briefing, the staff member emailed it to Mr. Kelly, Mr. Williams and others for review and asked them to provide any edits they thought were needed. Mr. Kelly responded to the email without noting any inaccuracies in the language quoted above.

⁵⁴ <https://www.youtube.com/watch?v=oXPKVuI72os&t=4s>

d. Mr. Kelly's Recollection About a Conversation During the 41-Day Period Is Inconsistent with Mr. Fletcher's Recollection.

To further emphasize the point that his decision to turn Complainant One's report over to the OIG was independent of the Mayor's Office sending him a second complaint, Mr. Kelly represented to A&P counsel that he actually told the IG at the time, Mr. Fletcher, about Complainant One's report before the Mayor's Office sent him the second complaint. Mr. Kelly explained that he ran into Mr. Fletcher towards the end of the 41-day period but before he received the second complaint. He recalled that he said to Mr. Fletcher that he has a file coming Mr. Fletcher's way on lifeguards. He further stated that he told Mr. Fletcher that Mr. Williams was currently looking into the complaint, but he was going to need Mr. Fletcher to look into it. According to Mr. Kelly, Mr. Fletcher said something to the effect of "Great, happy to help. Let me know when." According to Mr. Fletcher, the first time he heard about either complaint was when Mr. Kelly's assistant called him on March 19, 2020 to let him know that she would be emailing the complaints.

3. Mr. Kelly's Public Statements on the Investigation of the Lifeguard Complaints and Disciplinary Actions

On or about August 4, 2021, the press again reported on Mr. Kelly's 41-day delay in reporting Complainant One's allegations to the OIG. On or about August 6, Mr. Kelly told an ABC 7 reporter that after receiving the complaint in February 2020, he told his management team to look into the allegations.⁵⁵ On approximately August 16, 2021, Mr. Kelly held a press conference and announced that two of his high-level managers were placed on emergency suspension. Mr. Fischer and Mr. Bueling were placed on suspension shortly before the press conference. Mr. Kelly stated during the conference that the suspensions were "based on information I received from the [IG.]"⁵⁶ He also stated, "These suspensions today are big."⁵⁷ But when A&P asked Mr. Kelly what information he received from the OIG to warrant their suspensions, Mr. Kelly stated that he was never provided with the reason for the suspensions. He further stated that he merely followed the OIG's recommendation for suspension without question and without a known basis for the suspensions. Ms. Little confirmed that she made the suspension recommendations and that her office had discovered that Mr. Fischer had received but not reported Complainant One's allegations, and Mr. Bueling had received but not reported Complainant Two's allegations. Her memory, however, was unclear regarding what information led to their suspensions at that particular time. According to a witness interview report, the OIG learned about Mr. Fischer's failure to report Complainant One's allegations in March 2020, almost a year and a half before his suspension. According to email correspondence, the OIG knew about Mr. Bueling's failure to report Complainant Two's allegations by at least August 2020, approximately a year before his

⁵⁵ <https://abc7chicago.com/chicago-lifeguard-sexual-harassment-park-district-michael-p-kelly/10935745/>.

⁵⁶ <https://abc7chicago.com/chicago-park-district-lifeguard-sexual-harassment-superintendent/10954494/>.

⁵⁷ *Id.*

suspension. A&P did not review any evidence of complaints related to Mr. Fischer and Mr. Bueling that were received by the OIG in mid-August 2021 or shortly before that time. The CPD's Director of HR also reported that he was not given the reason for the suspensions, nor did he ask for the reasons. He first stated that he thought he was notified about the suspensions either by Ms. Little or Mr. Kelly, and he then stated he thought it was Ms. Little. The CPD's General Counsel and Director of Communications also were not informed about the reasons for the suspensions. Neither HR nor anyone else at the CPD provided Mr. Fischer or Mr. Bueling with a reason for their suspensions. They were simply told that they were being placed on suspension "pending the outcome of an OIG investigation."

Mr. Kelly also stated during the August press conference that the CPD had taken disciplinary actions against 42 employees since the OIG investigation began, a number provided to Mr. Kelly by the Director of HR. What might have been unclear, however, from Mr. Kelly's public statement was that only a few of these suspensions, approximately seven, were related to the OIG's investigation of the Lifeguard Complaints. Furthermore, the majority of the 42 disciplinary actions were not even related to alleged sexual harassment but rather were the result of HR investigations for more minor policy violations. For example, approximately 18 of the 42 disciplinary actions were for storing beer in the refrigerator of a CPD facility. Approximately ten of the disciplinary actions were for after-hours drinking. One disciplinary action was for providing inaccurate information to patrons.

4. Response of Eric Fischer to February 7, 2020 Email

On February 7, 2020—the same date that Complainant One emailed her report to Mr. Kelly—she also emailed the report directly to Mr. Fischer. Mr. Fischer did not respond to Complainant One's email, and he did not report her complaint to HR. The first time he told anyone about the complaint was when the OIG requested in August 2020 that he conduct an electronic search of his emails for Complainant One's name, at which time Mr. Fischer sent Complainant One's email to the OIG, claiming that he did not remember previously seeing the email. However, Mr. Fischer admitted to A&P that he was good about checking his CPD email account, including his spam email. Mr. Fischer also told A&P he did not remember reading the email in February 2020. In fact, when A&P first asked Mr. Fischer about the email, he appeared shocked that he had received the email directly in February 2020 and acted like it was the first time he was learning this information, despite the fact that he sent the email to the OIG in August 2020. Later in the interview, he acknowledged that he remembered sending the email to the OIG in August 2020 upon request.

The email metadata indicates the email was opened by Mr. Fischer. However, since the OIG did not collect email forensically during its investigation, but rather asked Mr. Fischer in August 2020 to personally search for and forward all emails from Complainant One, the metadata retrievable through the CPD's data system could not rule out the possibility that Mr. Fischer opened the email for the first time in August 2020. A&P subsequently retained a computer forensic examiner to review the metadata from Mr. Fischer's computer. It showed a "date created" for the email in August 2020, which supports a first date of opening from his computer in August 2020. However,

this does not rule out the possibility that Mr. Fischer opened the email from his work cell phone around the time he received it in February 2020. The forensic examiner also reviewed data downloaded from Mr. Fischer's cell phone, but the email was not retrievable from this data, and thus, he could not check the phone email metadata through this process.

Separate and apart from the email that Mr. Fischer received directly from Complainant One, Mr. Williams told A&P that he shared with Mr. Fischer the general contents of Complainant One's report, including that it contained allegations of lifeguards engaging in bullying, hazing, and drinking while on duty. Mr. Fischer told A&P that Mr. Williams described the lifeguard misconduct as "rotting," which was a bullying-type practice where senior lifeguards force junior lifeguards to stand at a post for a much longer than appropriate time period without a break as a form of retaliation. As detailed above, the Code of Conduct and the Violence in the Workplace Policy prohibit this type of conduct. Furthermore, a 2019 new lifeguard training presentation stated that hazing was a form of workplace violence.

The Code of Conduct requires that a supervisory employee, like Mr. Fischer, take sufficient disciplinary action against an employee who has violated the Code of Conduct. The Violence in the Workplace Policy states that all supervisors are responsible for "implementing and maintaining safe workplace practices" and reporting potentially dangerous situations to the HR Manager. The purported limited nature of Mr. Fischer's inquiries in response to the information he admittedly received from Mr. Williams is not aligned with the spirit of the Code of Conduct and is contrary to the Violence in the Workplace Policy. If Mr. Fischer's reported chain of events is accurate, he, in his role as the Assistant Director of Recreation, received information about potential policy violations taking place under his watch, all of which posed potential safety risks, yet he failed to make any further inquiries for details, failed to take any corrective actions, failed to report it to HR, and failed to follow up and check the status of any investigation.

5. Response of Adam Bueling to March 9, 2020 Email

We found sufficient evidence that Mr. Bueling violated HR's policies and procedures by not reporting Complainant Two's allegations. Complainant Two sent her complaint to Mr. Bueling via email on March 9, 2020. She asked him not to share her name with anyone until after they had an opportunity to speak directly. In her email, she provided him with her contact information. Mr. Bueling never responded to Complainant Two's email, and he did not tell anyone about the complaint. During his interview, Mr. Bueling gave A&P several explanations for why he did not provide the complaint to HR. First, he said that she requested confidentiality. Upon further questioning by A&P counsel, he acknowledged she only asked him to keep her name confidential, not the allegations. Mr. Bueling further acknowledged that there was nothing that precluded him from sharing the allegations with HR. Additionally, the CPD's Policy on Sexual Harassment explicitly stated that supervisors must report the allegations to HR, even if the complainant requests confidentiality.⁵⁸ When asked why Mr. Bueling never contacted Complainant Two or

⁵⁸ CPD Policy on Sexual Harassment, § VII.

otherwise responded to her email as she requested, he stated that he got busy with pandemic-related work projects and that he was concerned her email was “a trap,” meaning if he responded to her, it could lead to legal liability on the part of the CPD or himself.

A&P also did not find any evidence that Mr. Bueling reported to HR a different sexual harassment complaint he received in July 2020. Specifically, on July 9, 2020, a woman sent Mr. Bueling an email with a subject line “Safety Concerns in the Park District.” In the email, she first explained that she was a lifeguard. She then wrote, “I am writing to you hoping you can spare time to meet up with me and discuss concerns I have regarding past, present, and future sexual harassment and severe disrespect towards women within the Chicago Park District.” Mr. Bueling told A&P that he did not think he reported her email to HR and explained that he believed it was not specific enough to report to HR. He also did not think he ever spoke to the woman directly in response to her email. He speculated that he might have asked one of his assistant managers to speak with her, but he also stated that he might not have had time to respond to the email in any manner.

B. Status of the OIG’s Investigation of the Lifeguard Complaints

1. Pending OIG Investigations

In May 2021, the OIG retained outside counsel, namely Franczek, to assist in investigating the Lifeguard Complaints. According to Franczek attorneys, the IG at the time, Ms. Little, directed Franczek to prioritize the remaining sexual assault investigations and provided the firm with a list of eight subjects on which to initially focus. With the issuance of the OIG’s Third Quarter Report, the investigations of these eight subjects is complete.

Based on the information A&P has reviewed, the OIG has approximately 27 pending investigations of subjects from the Lifeguard Complaints, as detailed in the chart below. Most of the subjects in the chart below were first identified through witness interviews during the course of investigating the Original Complaints. Instead of logging each new subject into the OIG’s shared investigation database when identified by a witness, which would have generated a case number associated with that subject and an easily obtainable summary of the allegations and case status, the subjects were all treated as part of the cases for the Original Complaints and identified with the same case number as the Original Complaints. This resulted in the OIG database having no easily identifiable record of the subjects. A&P identified the subjects by reading through the witness interview memoranda to determine their names and what they were accused of doing. Now that the sexual assault investigations that were part of the Lifeguard Complaints are close to complete, the OIG and Franczek reported that they are working to prioritize and complete the remaining investigations. On October 26, 2021, the OIG hired two temporary full-time investigators with experience conducting sexual misconduct investigations and interviewing victims to assist the OIG and Franczek with the investigations.

Based on information obtained from the OIG and Franczek, primarily interview memoranda, A&P has summarized below the investigations of which A&P is aware that arose from the Original

Complaints. A&P has not described the allegations against the subjects in detail or captured all relevant information about the cases but rather has provided a summary of at least some of the allegations to give the public a sense of the remaining pending investigations. According to the OIG's records, some of these investigations involve uncooperative witnesses and/or will require additional corroboration for a substantiated finding.

Complaint Category⁵⁹	OIG Substantiated Cases and/or Action Taken	Ongoing Investigations Assigned to Franczek	Ongoing Investigations Not Yet Assigned by OIG to Franczek	Unsubstantiated Cases
	CATEGORY 1	CATEGORY 2	CATEGORY 3	CATEGORY 4
Sexual Assault/Abuse CATEGORY A	2 (2 nd Quarter Report) 3 (3 rd Quarter Report) Total = 5	0	2	4
Physical Assault CATEGORY B	0	1	0	0
Sexual Harassment, Derogatory Comments, and Bullying CATEGORY C	1 (2 nd Quarter report)	4	11	0
Participation in Hazing Activities CATEGORY D	0	2	4	0
Drinking/Marijuana on Duty	0	0	3	1

⁵⁹ Some subjects qualified for more than one category. In these instances, we included the subject in the most serious category and/or the category with the more reliable evidence to avoid double-counting.

Complaint Category⁵⁹	OIG Substantiated Cases and/or Action Taken	Ongoing Investigations Assigned to Franczek	Ongoing Investigations Not Yet Assigned by OIG to Franczek	Unsubstantiated Cases
	CATEGORY 1	CATEGORY 2	CATEGORY 3	CATEGORY 4
CATEGORY E				
Total:	6	7	20	5⁶⁰

⁶⁰ **Category A(3):** Both subjects are current employees. The first subject is a male lifeguard who is accused via hearsay evidence of putting his hands between the legs of a female lifeguard and telling her to stay away from a male lifeguard that he liked. He is also accused of harassment. The second subject is accused via hearsay evidence of harassment and groping. **Category A(4):** The four unsubstantiated cases involve alleged victims who are not fully cooperating with the OIG or denied the allegations. Two of the subjects are former employees. Former employee 1 was accused of forcibly kissing another lifeguard when the victim was 17. The victim is not cooperating with the OIG, but the case was referred to the Illinois Department of Children & Family Services (“DCFS”). Former employee 2 was accused of digitally penetrating a lifeguard without her consent, but the victim would not reveal the alleged perpetrator’s name to the OIG; a friend of the victim provided the subject’s name based on information the victim shared with her. The third subject is a current female employee who was accused of “taking advantage” of an underage woman “several years ago.” The alleged victim was interviewed. She was 41 years old and firmly denied any wrongdoing on the part of the subject. The fourth subject is a current female employee who one witness reported “groped” her male colleagues. One alleged victim was identified by name but is not cooperating. The employee denied the allegations. **Category B(2):** This subject is a seasonal lifeguard, including during the summer of 2021, at which time he was promoted to Senior Seasonal Lifeguard. The name of this subject and the details of the alleged assault (i.e., male lifeguard slamming female lifeguard into a metal wall of the guard room during summer 2019) were contained in Complainant One’s February 7, 2020 complaint. The OIG recommended on October 29, 2021 that this individual be placed on the Do Not Rehire List. **Category C(2):** Two of the individuals in this category are currently suspended. Both are alleged to have engaged in sexual harassment. One of these two individuals also was accused of sexual abuse via uncorroborated third-party hearsay. The third is a current employee who was accused by Complainant One of calling her degrading names, and Complainant 2 accused him of requesting sexual favors of female lifeguards. The OIG recommended on October 29, 2021 that this individual be placed on emergency suspension. The fourth subject is a current employee who is accused of engaging in hazing activities and making inappropriate comments about women’s bodies. The OIG recommended on October 29, 2021 that the CPD place this employee on emergency suspension. **Category C(3):** Five of these individuals are current employees, and six of these individuals are former employees. Current employee 1, a captain, is accused of making an inappropriate sexual comment to two female lifeguards. Current employee 2 is accused by Complainant Two and other lifeguards of making sexist comments about women and commenting on their bodies. Current employee 3 is accused of treating a female lifeguard harshly at work. Current employee 4, an hourly natatorium instructor, is accused of making sexually explicit remarks to

2. Reasons for Investigative Delay

Some of these investigations have now been pending for almost 21 months. The most glaring delays, based on the information A&P has reviewed, are (1) the investigations of the subjects named in Complainant One's report only recently began, (2) until recently, there has been little assessment of whether the subjects who are current employees, especially subject B(2) who was accused of assault, should remain employed at the CPD pending the outcome of the investigations, and (3) from a culture-improvement perspective, there has been a missed opportunity to show employees through disciplinary actions that this type of behavior will not be tolerated at the CPD.

Although there has been significant delay, A&P did not review any evidence to suggest that the slow pace of the OIG investigation has been the result of intentional interference by the CPD or the Board. The evidence A&P obtained indicates that the delays were due to the lack of experience of OIG staff with these types of investigations, high turnover of OIG leadership, and investigative challenges caused by the pandemic, seasonal employment, and uncooperative witnesses.

The question has been raised whether the Board and the CPD provided the OIG with sufficient resources to investigate the Lifeguard Complaints. Based on the fact that the OIG was operationally independent from the Board and the CPD, and thus, the OIG provided them with limited information about the OIG's pending investigations, as detailed in the chart below, the Board and the CPD depended on the OIG to identify resource needs.

During the course of the investigation of the Lifeguard Complaints, the OIG had budgeted positions for an IG, a deputy IG, three full-time investigators (two of which were provided by the Chicago Police Department and one came out of the CPD's budget), three part-time investigators, and a compliance officer, who had the capacity to spend some of his or her time on investigations.⁶¹ In 2021, three CPD auditors were merged into the OIG's office. Whether this number of

female lifeguards, providing drugs and alcohol to minors, and drinking on duty. Former employee 1 is a male lifeguard accused of sexually harassing other male lifeguards. Former employee 2 is accused of making inappropriate sexual comments about lifeguards and patrons. Former employee 3 is accused of staring at women in a way that makes them uncomfortable. Former employee 4 is accused by Complainant Two of establishing a "toxic culture." Former employee 5 is accused by Complainant One of calling her a bitch and saying she was weak when she quit. Complainant One also alleged that former employee 5 hid her clothing and took her lunch every day for a week, and on one occasion, threw her bag around, broke her glasses, and laughed about it. He also allegedly was intoxicated on duty. Current employee 5 and former employee 6 are female lifeguards who allegedly called Complainant Two a "kissy whore" and "slut" after Complainant Two was sexually assaulted by a male lifeguard.

⁶¹ A&P understands that these positions were not always filled during the relevant time period, but with one exception noted in the chart below where a temporary hold might have been placed on the OIG's ability to fill an open compliance officer position, hiring employees for open positions was an OIG function.

investigators and other staff members was sufficient depends on factors that only those inside the OIG could fully assess. While relevant, the number of subjects alone does not answer the question. The complexity of each subject investigation, including the number of witnesses and the nature and extent of the corroborating evidence that must be obtained, is a key factor, along with the management skills of leadership and the experience and capabilities of the investigators. For these reasons, it is not at all clear that giving the OIG more funds for more positions to fill would have adequately addressed the issues causing the delay.

Based on the evidence reviewed by A&P, although hesitation was expressed at times due to budget concerns related to the pandemic causing almost a \$100 million dollar loss in CPD revenue, the CPD and the Board ultimately approved almost all of the expenditures the OIG requested since early 2020, which is when the OIG’s investigation of the Lifeguard Complaints began. Furthermore, it was not until March 2021 that the IG alerted the Board and Mr. Kelly that the absence of resources “dedicated to sensitive investigations of sexual abuse and sexual assault” was one of four factors that was slowing the progress of the investigation. Shortly thereafter, a search began for a law firm experienced in sexual misconduct investigations to assist the OIG. In May, the IG presented Board President LaVelle and Mr. Kelly with a proposal to hire Franczek to “assume control over the [OIG’s] ongoing investigation of the Lifeguard Complaints.” The Board and Mr. Kelly promptly approved Ms. Little’s request to retain Franczek.

Based on the evidence reviewed, A&P has prepared the following timeline of (1) information that the OIG disclosed to CPD management about the investigation of the Lifeguard Complaints and (2) management approvals related to resource requests:

Date	Action
March 23, 2020	<p>When referring to the Original Complaints, IG Fletcher informs Board President Avis LaVelle and Mr. Kelly, “As you know, my office is already short-handed and the manner in which we are able to address these allegations (as well as our other matters) will depend in large measure to our ability to fill the open slots in our office.”</p> <p>[In January 2020, the OIG’s Assistant Compliance Officer left, and according to IG Fletcher, this employee had worked part-time on investigations. IG Fletcher told A&P that he recalled that a CPD staff member responsible for the budget might have asked him to temporarily hold off on filling the Compliance Officer position so there were sufficient funds to hire a Deputy IG. The staff member did not recall this request and indicated that his records reflected that the addition of the Deputy IG position did not affect the other open positions].</p>
April 1, 2020	CPD Office of Budget & Management creates a Deputy IG position.
April 15, 2020	IG Fletcher issues the OIG’s First Quarter Report. The report does not request additional resources. It notes, “In the first quarter of 2020, OIG was

Date	Action
	<p>allocated the resources to hire a deputy inspector general. The Park District’s investment in this critical position will realize an immediate benefit for our office.”</p> <p>The investigation of the Lifeguard Complaints is not discussed in the report. In the Quarterly Information Section at the end of the report, it lists seven newly opened investigations in the first quarter. Although not evident from the report, it appears, based on later identified case numbers, that two of the seven new investigations referred to the investigation of the Lifeguard Complaints--but they were only identified by case number, no case description. The report also lists eight investigations pending over six months due to “available time and resources.”</p>
June 9, 2020	<p>IG Fletcher reiterates in a letter to Mr. Kelly the need for permission to fill the Assistant Compliance Officer position. He wrote that if he received permission, the “OIG could operate at reduced capacity but still remain effective.” [IG Little initiates the hiring process for filling this position in approximately April 2021].</p>
July 15, 2020	<p>Interim IG Kipp issues the OIG’s Second Quarter Report. The report does not request additional resources. The investigation of the Lifeguard Complaints is not discussed in the report. The report lists nine investigations pending over six months due to “available time and resources.”</p>
August 27, 2020	<p>Interim IG Kipp gives an investigation status report to Board President LaVelle and Mr. Kelly. The presentation describes the allegations in the Original Complaints, reports that 34 subjects have been identified, and notes that the OIG is not ready to offer final opinions on the sufficiency of the evidence uncovered thus far. The presentation also lists six “unique difficulties encountered throughout the investigation,” but insufficient resources is not listed as one of them. The presentation also states, “The investigation is proceeding as expeditiously as possible, given the allegations’ sensitive nature.” [Mr. Kipp told A&P that he orally requested more resources during this presentation, but it is not reflected in the presentation and Board President LaVelle does not recall him making a resources request].</p> <p>The presentation further stated that three of the 34 subjects fall into the category of allegations related to “criminal sexual abuse” and “Peeping Tom Disorderly Conduct for Invasion of Privacy.” Mr. Kipp recommended that the CPD put these three subjects on emergency suspension and stated that the “OIG will continue to advise if additional emergency suspensions are warranted.” The CPD placed the three employees on emergency suspension over the next two days following Mr. Kipp’s presentation.</p>

Date	Action
September 15, 2020	<p>Interim IG Kipp issues the Third Quarter Report. The report does not request additional resources. The investigation of the Lifeguard Complaints is not discussed in the report.</p> <p>The Lifeguard Complaints’ two case numbers appear in the Quarterly Information section at the end of the report (there is no case description; the nature of the allegations is described as “criminal misconduct or fraud”). The report lists 16 investigations pending over six months due to “available time and resources.” The other 14 cases listed were unrelated investigations, 12 of which were opened in 2019. The listed reason for the delay for the 16 cases was “available time and resources.”</p>
January 15, 2021	<p>IG Little issues the Fourth Quarter Report. The report does not request additional resources but notes the following: “Most acutely, like other agencies, the Park District suffered significant budgetary losses in 2020 due to the on-going pandemic. The OIG was asked to assist in addressing the budget shortage by decreasing its already slim budget. In response, the OIG decreased its budget by 7.3% for the 2021 fiscal year. However the budget cuts have not affected the OIG’s ability to become fully staffed in 2021.”</p> <p>Ms. Little also added a new section to the report entitled Office Overview. In that section, she noted that the OIG has the following personnel: The IG, the Deputy IG, one full-time investigator, and one part-time investigator. She further noted that the OIG had additional budgeted positions for a second part-time investigator and an Assistant Compliance Officer, both of which were unfilled at the time. She also noted that the OIG receives “regular support from law enforcement personnel.” This regular support included two additional full-time investigators from other law enforcement agencies.</p> <p>The report does not mention the investigation of the Lifeguard Complaints. The report lists 21 investigations pending over six months due to “available time and resources.” The Lifeguard Complaint investigation is referenced only with two case numbers and no case description in this section. The reported reason for the delay for the 21 cases was “available time and resources.” Twelve of the 21 cases were from 2019.</p>
March 12, 2021	<p>In a memorandum to the Board and Mr. Kelly, IG Little mentions the “dearth of Park District resources specifically dedicated to sensitive investigations of sexual abuse and sexual assault” as one of four factors slowing the progress of the investigation. Shortly thereafter, IG Little begins a search for a law firm to assist the OIG with the investigation of the Lifeguard Complaints.</p>

Date	Action
April 15, 2021	<p>IG Little issues First Quarter Report. The report does not request additional resources but rather notes the OIG’s need to fill the open positions for a part-time investigator and the Assistant Compliance Officer. She notes that she has conducted interviews and is in the process of “on-boarding” the compliance officer “to fulfil [sic] the OIG’s hiring oversight function.” In the Office Overview section, she notes that the office has a total of three part-time investigator positions, two of which were unfilled. [The prior quarterly report had indicated that there were two part-time auditor positions]. She also noted that the CPD’s Director of Audit and two full-time auditors were merged into her team.</p> <p>The investigation of the Lifeguard Complaints is not addressed in the report. The investigation is referenced only with the same two complaint numbers and no case description in the “Matters Pending Over Six Months” Section. There were 23 matters listed in this section. The reason listed for the delay was “available time and resources.” Eleven of the listed cases were from 2019.</p>
April 27, 2021	Information on the Lifeguard Complaints is reported in the media. The IG believes that this was caused by a leak of confidential information.
May 5, 2021	Franczek submits proposal to IG Little to handle the investigation of the Lifeguard Complaints. The proposal reflected that the attorneys had substantial experience in conducting sensitive investigations involving sexual misconduct and interviewing victims.
May 12, 2021	IG Little sends email to Mr. Kelly and President LaVelle recommending the retention of Franczek “to expedite the ongoing investigations” of the Lifeguard Complaints. She attaches Franczek’s proposal to the email along with a separate letter, dated May 11, 2021, that she wrote to President LaVelle. The letter states in part that the investigation has grown in size and “[t]he OIG is not sufficiently staffed to conclude this investigation in a timely manner and in the interest of bringing the investigation to a swift and comprehensive conclusion, the OIG recommends that the Board retain, at the Park District’s expense, the law firm of Franczek P.C. to assume control over the OIG’s investigation.” The Board President promptly approves the proposal to retain outside counsel.
May 18, 2021	IG Little executes engagement letter with Franczek.
July 15, 2021	IG Little asks in the Second Quarter Report and in a meeting with the Board and Mr. Kelly for two new full-time investigators with sexual misconduct investigative experience, plus combining the two open part-time investigator positions into one more full-time investigator position. The request was made in anticipation of a plan that the OIG/CPD would be

Date	Action
	<p>restructured such that the OIG would broaden its investigative scope to handle all sexual misconduct complaints going forward. The request for resources is not presented as being related to the investigation of the Lifeguard Complaints, which already was being transferred to Franczek in phases.</p> <p>In Ms. Little’s prepared statement for the Board, she writes in part, “In the spirit of prioritizing allegations of sexual misconduct, at my request, we have retained outside counsel—Franczek to address the remainder of this matter in an expeditions...but thorough manner.”</p>
August 4, 2021	<p>OIG announces that the CPD has approved the OIG’s reorganizational structure to allow it to “exclusively address future matters of sexual misconduct in an expeditious and thorough manner.” As part of this change in structure, the OIG receives two new full-time investigators to replace three part-time investigators; resulting in a budget increase of over \$65,000 for salaries plus additional funds for employee benefits (part-time employees did not get benefits). Ms. Little reported to A&P that she was satisfied with this allocation.</p>
August 19, 2021	<p>IG Little gives public statement that the CPD approved her request for additional resources to hire and train new personnel even when CPD “revenues were severely curtailed by the lack of activities during the Covid-19 shutdown.”</p>

C. Corrective Actions Taken by the CPD

1. Timeliness of the Corrective Actions

Between mid-March 2020 and mid-April 2021, a period of slightly over a year, A&P found no evidence that the CPD pursued any material corrective actions to address the allegations set forth in the Original Complaints. Although the pandemic reduced aquatic-related activities in 2020, the indoor pools were open for a period of time in 2020 and spring 2021, a reduced-size seasonal lifeguard class was hired in the summer of 2020 (and ended up serving as “social distancing ambassadors”), and year-round lifeguards remained employed at the CPD.

Based on the evidence A&P reviewed, corrective action efforts quickly ramped up beginning on April 27, 2021 when the Lifeguard Complaints investigation was reported in the press. As discussed earlier, Mr. Williams held a meeting on the morning of April 27 with Mr. O’Connell, Mr. Bueling, and Mr. Fischer. According to Mr. O’Connell and Mr. Williams, Mr. O’Connell was

the only meeting participant who had just learned about the Original Complaints that day.⁶² They began to discuss an action plan at that time.

2. Corrective Actions Taken or in Process

By April 30, the Recreation Department staff, assisted by the Legal Department and others, had come up with a list of 29 recommended actions to begin to improve the culture at the CPD, which Mr. Williams asked Mr. O'Connell to put into writing. This was the plan that CPD followed in large part when it began to initiate corrective actions. In their analysis, they pointed out that there was a historical belief within the CPD that if the conduct was off-the-clock and off-site, it could not be monitored by the CPD. Both Mr. O'Connell and Mr. Bueling told A&P that up until 2021 this was the general understanding conveyed by both the Beaches and Pools Unit and HR when assessing whether they could take action on a complaint. According to Mr. Bueling, in the summer of 2021, the Beaches and Pools Unit began to say during beach officer training presentations that after-hour activities were subject to the Code of Conduct.

⁶² Later in the day, after the meeting, Mr. O'Connell wrote an email to Mr. Kelly, Mr. Williams, and others in which he spoke about the need for "culture change" and recommended that they send out a communication to the Beaches and Pools Unit staff addressing the press article and management's commitment to improving the culture going forward. According to Mr. O'Connell, after Mr. O'Connell sent the email, Mr. Williams contacted him and directed him to put nothing more in writing related to the lifeguard matter. Mr. Williams stated that this directive came from Mr. Kelly. Mr. Williams did not remember the specifics of that conversation, but he did remember Mr. Kelly being upset with Mr. O'Connell about something. He also stated that Mr. Kelly regularly told him, "Don't paper me," and Mr. Williams assumed the rule applied to the lifeguard investigation. According to Mr. O'Connell, approximately one week later, on May 3, 2021, Mr. Kelly informed Mr. O'Connell that he was being removed from his position as Deputy Chief of Programs and going forward, he would be the Deputy Chief of Workforce Development, housed in a new office location at Peterson Park. According to Mr. O'Connell, May 3 was the first time he had heard anything about this job change plan. Mr. O'Connell viewed the position and location change as punitive for writing the email. On May 6, Mr. O'Connell met with Mr. Kelly to try to talk him out of the change in position and office location. During that meeting, according to Mr. O'Connell, Mr. Kelly said words to the effect of, "You're exonerated. Alonzo said he never gave you the letter." Although Mr. O'Connell was able to convince Mr. Kelly to change his mind about the office location move, he was unsuccessful in changing Mr. Kelly's mind about the position change. Mr. O'Connell has had little involvement in the implementation of corrective actions since Mr. Kelly changed his position. Mr. Williams expressed to A&P that the circumstances of Mr. O'Connell's change in job position were odd in that the change happened suddenly and because Mr. Kelly did not consult Mr. Williams beforehand, despite the fact that Mr. O'Connell was Mr. Williams' direct report. Mr. Williams said that he had always worked well with Mr. O'Connell and that there were no issues with Mr. O'Connell's job performance. Mr. Kelly told A&P that Mr. O'Connell was moved to a new position so females could be promoted to director-level positions. Mr. Kelly told another staff member that he moved Mr. O'Connell because he did not think Mr. Williams and Mr. O'Connell were a good dynamic together.

In addition to the oversight ambiguity, lifeguards raised concerns related to “rotting.” According to the information A&P obtained, senior lifeguards had the ability to abuse their power and force the junior lifeguards to do what the senior lifeguards want them to do by threatening “rotting” as a form of retaliation. The senior lifeguards had the ability to “rot” a junior lifeguard because they had the authority to set the daily rotation schedules for the lifeguards, including the duration of time at a post and the post locations. One or two hours at a post was typical. When a lifeguard was “rotted,” they were required to stay at a post for a much longer period of time (e.g., six to eight hours) without a break. Additionally, some posts were more desirable than others (e.g., rowing in a boat out in the water was less desirable). Typically, “rotting” involved being sent to one of the more undesirable posts. According to many witness accounts, “rotting” had been used over the years to force lifeguards to go to parties they did not want to attend; to force them to sing a degrading fight song and participate in hazing activities; to drink when they did not want to drink; and to stay quiet when they wanted to speak up and complain about how they were being treated. By setting a standard and mandatory rotation schedule at each beach and pool location for each lifeguard post and setting a standard frequency of post rotation, the senior lifeguards’ ability to “rot” would be curtailed, as noted in the written materials prepared by the Recreation Department staff. According to Mr. Bueling, a routine assignment schedule was set at the pools for 2021 and developed for the beaches, but they did not have time to implement the new system at the beaches over this last summer because it required more training. Relatedly, the process of lifeguard transfers to other beaches could benefit from a similar standardization. Many witnesses expressed concerns about senior lifeguards using beach assignment transfers as a form of retaliation.

Another issue that came up multiple times during A&P’s review was lifeguards’ dissatisfaction with the complaint reporting and investigation system. Many lifeguards reported that they did not believe HR was responsive to their complaints, effective in their investigations, or serious about disciplinary consequences of misconduct.⁶³ These concerns continued into the summer of 2021. Lifeguards also expressed frustration with the difficulties of getting a complaint to HR. Many lifeguards believed they had to go through their supervisors in the Beaches and Pools Unit, who were often the subjects of the complaint. This belief was supported to a certain extent by the training materials the Beaches and Pools Unit received through 2020, which discussed the option of using mediation within the Beaches and Pools Unit in lieu of filing a complaint with HR and initiating an investigation. The training materials stated in part, “If we can keep [sexual harassment] problems small and correct them through mediation, we will save time and productivity.” Multiple lifeguards requested change in the complaint process, explaining that there

⁶³ It is difficult to fully assess the responsiveness and effectiveness of HR in responding to complaints because the department was not tracking complaints received and investigative actions taken until 2021. Prior to that time, HR just tracked disciplinary actions that were taken. The disciplinary log showed two disciplinary actions taken during 2019 related to sexual harassment. The absence of a complaint log prior to 2021 also precludes observation of historical trends in types of complaints and easy identification of alleged repeat offenders. Based on the information A&P was able to obtain, there was nothing to indicate that if the investigation of the Lifeguard Complaints had been conducted by the HR Department that it would have been more timely or effective than the investigation by the OIG.

must be an effective complaint reporting and investigation process for sexual assault, sexual harassment, bullying, hazing, and discrimination complaints. Prior to his departure, Mr. Kelly hired Prescient as a consultant to assist in the process of creating protocol for a new and independent complaint reporting and investigation system with trained investigators.⁶⁴ Prescient is in the final stages of developing the protocol, but the much needed new complaint reporting and investigations system has not yet been implemented. Currently, the HR Department is still tasked with the responsibility for receiving and investigating sexual harassment, workplace violence, discrimination, hazing, and bullying complaints. The OIG is handling new sexual assault and misconduct cases.

Although the issues with retaliation and complaint reporting came up most frequently during A&P’s investigation, there were many additional ideas shared regarding ways to improve the work culture for lifeguards. The CPD has incorporated many of these ideas into the corrective action measures it has taken in recent months. The chart below summarizes some of the corrective actions that have been implemented by the CPD and shared with A&P during this review.

Corrective Actions
Appointed CPD Internal Monitor and Liaison who (1) attends the Beaches and Pools Unit training sessions and staff meetings and performs on-site visits at beaches, among other activities, to ensure the unit takes appropriate measures to provide a safe and respectful work environment, and (2) communicates with the OIG to discuss and implement corrective action recommendations from the OIG while the Lifeguard Complaints investigation remains ongoing. ⁶⁵
Increased staff monitoring of beaches and pools, including site visits by management.
Provided live Resilience sexual harassment training for all year-round Beaches and Pools Unit staff and webinar for seasonal staff, plus multiple additional trainings that addressed sexual harassment and related misconduct for seasonal staff (e.g., during annual training and in-service training sessions).
Added messaging during training that conduct occurring after-hours and off CPD property was still subject to discipline if the misconduct was between CPD employees, had the potential to create a hostile work environment, or violated the Code of Conduct.

⁶⁴ The investigation protocol also will include procedures to ensure that reports of abuse of minors are promptly reported to the DCFS, in accordance with the Ill. Dep’t of Children & Family Servs., Manual for Mandated Reporters. If the victim is not a minor, the investigators can only encourage the victims to report their experiences to law enforcement. Employing investigators who are trained in how to effectively communicate with victims of sexual misconduct will facilitate the success of that process.

⁶⁵ The OIG does not reveal to the Internal Monitor any confidential information about the subjects of its investigations but rather simply shares information discovered during the investigation about CPD practices or trends in complaints that trigger a need for prompt corrective actions by the CPD. This is an important safety measure for long-term investigations.

Improved procedure for climate/safety check-ins between lifeguards and beach captains and pool supervisors.
Implemented rules prohibiting lifeguards from changing clothes in communal areas .
Created a set rotation schedule for the daily assignment schedule at pools to prevent “rotting.” <u>But it has not yet been implemented at most of the beaches.</u>
Posted informational flyers at all office locations for beaches and pool offices promoting sexual harassment and workplace violence policies and providing phone numbers for reporting violations.
Followed OIG’s recommendations for emergency suspensions of employees under OIG investigation for sexual misconduct.
Hired law firm to conduct a policy and procedures review to assess where improvements could be made to the HR Policy and Procedure Manual.
Hired Prescient to develop new protocol and process for complaint reporting and investigations related to allegations of sexual misconduct, discrimination, bullying, and related conduct.

CPD staff also included several other possible corrective actions in their April 2021 analysis that focused on providing more opportunities for female lifeguards to have a voice within the CPD. First, they suggested increasing the number of female lifeguards who hold leadership positions. They also suggested starting a process of peer and supervisor evaluations. Giving lifeguards the option of confidentially reviewing their peers and supervisors at the end of a year or summer season incentivizes appropriate workplace conduct. Regular culture surveys also could provide valuable feedback on where undesirable behaviors and gaps in monitoring remain. CPD is continuing to consider the implementation of these important measures and others as it works to ensure a safe and comfortable working environment for its lifeguards and other employees.

III. CONCLUSION

We are greatly appreciative of the time that the CPD staff has spent over the last several weeks in assisting us gather the information for this Report. The CPD has fully cooperated with this investigation, and the Board has supported our investigative independence in identifying the facts related to A&P’s scope of work.