

City of Chicago
Inspector General's Office
Interim¹ Rules and Regulations
(October 18, 2011)

Section I – Investigations

1.1 Purpose

These rules are promulgated under the authority provided by the Municipal Code of Chicago (MCC) § 2-56-030(i) to provide guidance concerning investigative matters conducted by the City of Chicago Inspector General's Office (IGO).

1.2 Mission

The IGO is an independent, nonpartisan oversight agency whose mission is to promote economy, efficiency, and integrity in the administration of programs and operations of City government. The IGO achieves this mission through:

- Administrative and Criminal Investigations
- Audits of City programs and operations
- Reviews of City programs, operations and policies

From these activities, the IGO issues reports of findings, and disciplinary and policy recommendations to ensure that City officials, employees and vendors are held accountable for the provision of efficient, cost-effective government operations and further to prevent, detect, identify, expose and eliminate waste, inefficiency, misconduct, fraud, corruption, and abuse of public authority and resources.

1.3 Jurisdiction

1. Investigative Subject Matter Jurisdiction

Pursuant to MCC § 2-56-030(b), IGO subject matter jurisdiction extends to “the performance of governmental officers, employees, functions and programs, either in response to a complaint or on the inspector general's own initiative, in order to detect and prevent misconduct, inefficiency and waste within the programs and operations of the city government.”

2. Investigative Personal Jurisdiction

Pursuant to MCC § 2-56-050, IGO personal jurisdiction for investigations extends to the conduct of the following:

¹ These Rules and Regulations are considered Interim to provide a period of Notice and Comment in accordance with Section IV, herein.

- a. except as limited in subsection (f) of this section, all elected and appointed officers of the city government in the performance of their official duties;
- b. except as limited in subsection (f) of this section, all employees of the city government in the performance of their official duties;
- c. all contractors and subcontractors in the providing of goods or services to the city pursuant to a contract;
- d. business entities in seeking contracts or certification of eligibility for city contracts; and,
- e. persons seeking certification of eligibility for participation in any city program.
- f. Notwithstanding anything to the contrary contained in subsections (a) - (e) of this section, investigative personal jurisdiction of the IGO does not extend to allegations or complaints of misconduct, inefficiency or waste by any member of the city council, or any city council employee (as defined in MCC § 2-55-010).

1.4 Legal Duties

IGO Investigative Activities shall be conducted in accordance with the following as applicable:

- The Constitution of the United States;
- The Constitution of the State of Illinois;
- The Laws of the State of Illinois;
- The Municipal Code of the City of Chicago;
- Applicable Collective Bargaining Agreements;
- The Personnel Rules of the City of Chicago;
- Applicable legal case law;
- These IGO Rules and Regulations;
- Internal Policies and Procedures of the IGO; and
- Principles and Standards for Offices of Inspector General (the National Association of Inspectors General “Green Book”).

1.5 Receiving Complaints and Information

The IGO shall maintain the following mechanisms for the intake of complaints and information:

1. Public website through which an individual may provide information, via a secure electronic report form, 24 hours a day, 365 days a year.

www.chicagoinspectorgeneral.org

2. Email address: reportcorruption@chicagoinspectorgeneral.org
3. Telephone Hotline: (866) IG-TIPLINE (866-448-4754)
TTY: (773) 478-2066
 - a. The Hotline shall be staffed with an on-duty IGO representative between the hours of 8 a.m. to 5 p.m.;
 - b. The Hotline shall be enabled to receive recorded messages at all other hours which shall be responded to and processed as appropriate the following regular workday, in accordance with the procedures set forth herein;
4. Facsimile: 773-478-3949
5. United States Mail: City of Chicago, Inspector General's Office
P.O. Box 2996
Chicago, IL 60654-2996
6. Any such other means of transmittal, receipt or communication that the IGO deems will further encourage and foster the receipt of complaints and information without sacrificing confidentiality. (*See* IGO Rules & Reg. 1.8).

1.6 Recording and Logging of Complaints

MCC § 2-56-030(a) provides that the IGO has authority to receive and register complaints concerning misconduct, inefficiency and waste within city government.

All complaints received through any and all means, including but not limited to those means identified in IGO Rule & Reg. 1.5, shall be assigned a unique number for tracking purposes.

1.7 Complaint Referral

Following a review of information provided to the IGO, one of three potential actions may be taken: (a) opening an investigation, (b) referring the matter to the appropriate City department for investigation or other appropriate action, or (c) declining to investigate for one or more reasons.

For matters referred to the appropriate City department for investigation, the IGO requests that once the matter is resolved, that the department provide the IGO a memorandum detailing any actions it takes.

When the IGO is informed that a City employee has been arrested by the Chicago Police Department, the IGO will track the court proceedings and inform the employee's department head of significant activity.

1.8 Confidentiality

The identity of anyone providing information to the IGO will be protected to the full extent provided by law. (*See* MCC § 2-56-070 and -110).

Pursuant to MCC § 2-56-110, investigative files and reports of the IGO are and shall be treated as confidential and may not be divulged except to the United States Attorney, the Illinois Attorney General or the State's Attorney of Cook County.

Pursuant to MCC § 2-56-070, an IGO Summary Report (*see* IGO Rule & Reg. 1.16(1)) shall not include the identities of informants, complainants, witnesses or subjects **unless** the report recommends disciplinary action against an employee or administrative action against a vendor or entity seeking certification.

If complainants or informants request their identity to remain confidential, they will be notified in the event disclosure of their identity is required by law.

Pursuant to MCC § 2-56-060, the IGO shall provide relevant investigative information along with its Summary Report to the Mayor's Office and the head of each department or agency affected or involved in the investigation.

1.9 Opening of Investigations

1. The IGO may initiate an investigation based on:
 - a. information or complaints received from:
 - i. a known or self-identified party; and
 - ii. an anonymous party
 - b. its own initiative.
2. Complaints may be opened as investigations only with the approval of the Director of Investigations or the Inspector General (IG);
3. Factors for consideration about whether to open an investigation, may include, but shall not be limited to:
 - a. credibility of the complainant;
 - b. reliability and accuracy of information based on the IGO's knowledge of the subject matter;
 - c. the nature of the conduct alleged;
 - d. the age of the conduct complained of;

- d. the likely impact on City operations;
 - e. availability of investigative resources likely necessary to prove or disprove the complaint and impact on existing case load.
4. The following considerations constitute forbidden factors that shall not be considered when determining whether to open an investigation include, but are not limited to:
- a. the religious or political beliefs of the complainant or alleged wrongdoer;
 - b. the race, age, gender, disability, sexual orientation, national origin, marital status, military service or discharge status complainant or alleged wrongdoer;
or
 - c. protected First Amendment conduct of the alleged wrongdoer.

1.10 Investigative Standards

All IGO investigative staff shall have requisite knowledge, skills, and abilities to conduct thorough, objective and timely investigations. IGO investigative staff shall use due professional care and conform to the highest legal and ethical standards in the course of their work. IGO supervisory staff shall be responsible for ensuring the investigatory staff members are properly trained and monitored to ensure that investigations are thorough and that reports are high-quality.

1.11 Scope of IGO Investigation

1. In order to ascertain relevant facts necessary to make findings and recommendations as required by law, an IGO investigation may include, but is not limited to:
- a. interviews with complainants, witnesses and subjects;
 - b. acquisition and analysis of relevant documents;
 - c. surveillance;
 - d. computer forensic analysis;
 - e. covert activity or undercover operations as allowed and approved by state and federal law.

1.12 Documentation

All significant investigative activities shall be documented in the case file in a timely, accurate and complete manner consistent with IGO policies and procedures.

The IGO shall undertake to collect all relevant evidence and to preserve the chain of custody to preserve its admissibility in any subsequent proceedings. The IGO shall maintain evidence tracking procedures and a secure evidence room that only authorized IGO personnel can access. Information and evidence obtained during an investigation shall be verified by as many sources as are necessary and reasonable to establish the

validity of such information and evidence.

1.13 Subpoenas

The IGO is authorized to issue subpoenas to compel the attendance of witnesses and/or the production of documents and other items. Subpoenas shall be issued in accordance with MCC § 2-56-040, which provides the following:

1. Service

Service must be made in the same manner as subpoenas issued under the Rules of the Illinois Supreme Court, that is, by: in-person delivery, certified mail or facsimile.

2. Return/Response Time

Subpoenas will have a return date of at least seven days from the date of service of the subpoena.

3. Objection

- a. The person or entity to which a subpoena is directed may submit a written objection no later than the time for appearance or production required by the subpoena. The objection shall be in writing, delivered to the IGO, and shall specify the grounds for the objection.
- b. The filing of an objection to a subpoena, and negotiations pursuant to an objection, shall not constitute refusal to comply with the subpoena, or interference with or obstruction of an investigation.

4. Processing of Objection

- a. For seven days after receipt of a timely objection to a subpoena, the IGO shall take no action to enforce the subpoena or initiate prosecution of the person to whom the subpoena is directed.
- b. During this seven-day period, the IGO shall consider the grounds for the objection and may attempt to resolve the objection through negotiation with the person to whom the subpoena is directed.
- c. The seven-day period may be extended by the IGO in order to allow completion of any negotiations. The extension shall be in writing addressed to the person to whom the subpoena is directed, and shall specify the date on which the negotiation period will end. Negotiations may include such matters as the scope of the subpoena and the time, place and manner of response thereto.

5. Fees/Costs

Subpoenas requiring a personal appearance shall include a check for \$20 (witness fee), plus a mileage fee (\$0.20 per mile each way for necessary travel).

1.14 Duty to Cooperate

Pursuant to MCC § 2-56-090:

1. Every officer, employee, department, agency, contractor, subcontractor and licensee of the city, and every applicant for certification of eligibility for a city contract or program, has a duty to cooperate with the IGO in any investigation or hearing undertaken pursuant to this chapter; and
2. Each department's premises, equipment, personnel, books, records and papers shall be made available as soon as practicable to the IGO.

1.15 Interviews

1. As part of an investigation, the IGO may conduct interviews of persons with relevant information, including complainants, witnesses and subjects. In all investigations, to the extent possible, the IGO shall attempt to interview the subject of the investigation. Investigators may administer oaths and examine the interviewee under oath. The conduct of interviews for union employees is governed by applicable Collective Bargaining Agreements (CBAs).

2. Status of Interviewee

The status of an interviewee depends on a number of circumstances and may change over the course of an investigation depending on the facts of the matter.

- a. Witnesses are defined as persons who provide information and against whom formal action is not reasonably contemplated (including disciplinary, administrative or criminal sanctions).
- b. Subjects are defined as persons against whom formal adverse action (including disciplinary, administrative or criminal sanctions) might potentially be recommended.

3. Advisements to subjects

Advisements shall be provided to subjects as required by law and applicable CBAs.

The specific advisements provided to subjects depend on their status (employee/vendor/licensee; union/non-union) and whether an investigation is administrative or criminal. IGO investigators shall read the appropriate advisements

(administrative or criminal) aloud and provide a written copy for review before requesting a signature acknowledging that the advisements have been provided. The acknowledgement form shall be included in the investigative file.

Administrative advisements and criminal advisements shall not be given in the same interview.

a. Administrative Investigations

Administrative investigations generally involve violations of City ordinances, rules, policies or procedures and/or waste or inefficiency, and advisements in such investigations shall contain the following core elements:

- i. The interviewee has a duty to cooperate.
- ii. Nothing from the interview can be used in any subsequent criminal prosecution against the interviewee.
- iii. Any information provided can be used as the basis for disciplinary and/or other administrative action against the interviewee.

As required by applicable Collective Bargaining provisions, union employees will be advised that they have the right to union representation or legal representation at the interview.

b. Criminal investigations

Criminal investigations may involve violations of municipal, state or federal law, and the advisements in such investigations shall contain the following core elements:

- i. The interview is voluntary, and there is no duty to answer questions or provide information.
- ii. Any statement or information provided may be used in a subsequent criminal prosecution and/or disciplinary/administrative action against the interviewee.

As required by applicable Collective Bargaining provisions, union employees will be advised of their constitutional rights concerning self-incrimination if the allegation indicates that criminal prosecution may be probable.

4. Witness Interviews

The following are the basic rules governing witness interviews:

- a. Witnesses are expected to provide complete and truthful answers to IGO inquiries.
- b. If, during the course of an interview, the IGO determines that a witness may be subject to formal adverse action, the IGO shall stop the interview and either (i) provide appropriate advisements as discussed in section 1.15(3) above, or (ii) schedule a subsequent interview at which time appropriate advisements will be provided.

5. Representation

All interviewees (whether a subject or witness) may request representation at an interview.

- a. An interviewee requesting representation at an IGO interview shall be given a reasonable amount of time to obtain union representation or an attorney.
- b. At any time during the interview, the interviewee may stop the interview and request representation, and the interview will be continued for a reasonable amount of time.
- c. If an interviewee elects to bring a representative, that representative may not answer questions for the interviewee and may not obstruct the interview. Interviewees are advised that they will be permitted to take reasonable breaks and may consult with their representative during those breaks. Representatives may be permitted to clarify questions and may provide additional information at the conclusion of the interview.
- d. If a union employee who is a subject chooses to proceed without a union representative or attorney present, he or she shall be asked to sign a waiver indicating that fact.

6. Recording

It is the IGO's policy to seek to record subject interviews either by means of audio-recording or court-reporting. In the event that an interview is not court-reported, the following steps shall be taken:

- a. Prior to the interview, the subject shall be asked if he/she will consent to recording.
- b. Pursuant to Illinois state eavesdropping law, if the interviewee declines to give his/her consent, the interview shall not be audio-recorded.
- c. No adverse action shall be taken against the interviewee for refusing to consent to record an interview.

1.16 Findings

1. IGO investigations result in either Sustained or Not-sustained findings.
2. Sustained cases may either be administrative, criminal, or both.
 - a. Administrative investigations which establish by a preponderance of the evidence that a violation occurred are Sustained. Administrative investigations which do not establish by a preponderance of the evidence that a violation occurred are Not-sustained.
 - b. Criminal investigations will be reviewed by the United States Attorney, the Illinois Attorney General or the Cook County State's Attorney, as appropriate, to determine if criminal prosecution is warranted.

1.17 Reporting

1. Summary Reports

- a. A Sustained administrative case shall result in a written Summary Report that summarizes and analyzes the relevant evidence, both aggravating and mitigating, specifies the subject's violations of the Personnel Rules or other laws and sets forth recommendations for disciplinary or other corrective action.
- b. No Summary Report shall issue without the approval of the IG or a designee limited to the following personnel (Director of Investigations, Deputy Inspector General for the Legal Section).
- c. A Summary Report shall be sent to the Office of the Mayor, the Corporation Counsel, and the head of the relevant City department(s) implicated in the investigation or from whom response to IGO recommendations may be required.
- d. The IGO may issue Summary Reports recommending administrative action based on criminal conduct.

2. Public reports

The IGO is authorized to issue a public summary of each investigation resulting in sustained findings of misconduct. These reports shall briefly state, without disclosing the name of any individual(s) who was the subject of such investigation, (i) the nature of the allegation or complaint; (ii) the specific violations resulting in Sustained findings; (iii) the Inspector General's recommendation for discipline or other

corrective measures; and (iv) the City’s response to and final decision on the Inspector General’s recommendation.

Section II – Oversight

2.1 External Review of Operations

To the extent permitted and consistent with the IGO’s confidentiality requirements set forth in MCC § 2-56-110, the Investigations Section of the IGO shall submit to the following external reviews of operations:

1. Confidential Exempt Expenditures of the IGO Investigations Section shall be subject to a special review by an outside public accounting firm every two years. The final report shall be delivered to the City’s Director of Internal Audit, and the Inspector General. The Inspector General shall post the report on the IGO’s public website and will provide a copy to (i) the Office of the Mayor; (ii) the Office of the Comptroller and; (iii) the Chair of the City Council Audit and Workforce Development Committee.
2. IGO operations shall be subject to a triennial qualitative assessment peer review of by the Association of Inspectors General. The Peer Review of the IGO Investigations Section shall be based on the national Principles and Standards for Offices of Inspector General (the “Green Book”). The Peer Review of the IGO Audit Section shall be based on the *Government Auditing Standards* issued by the Comptroller General of the United States (the “Yellow Book”). All non-confidential findings shall be posted and maintained on the IGO’s public website and a copy of which shall be provided to (i) the Office of the Mayor; (2) the Office of the Comptroller and; (3) the Chair of the City Council Audit and Workforce Development Committee.

2.2 Internal Investigations

See attached “Memorandum of Understanding regarding Investigations of the Inspector General’s Office Employees.”

Section III – Public Hearings (reserved)

The IGO has never conducted public hearings. The IGO shall not conduct public hearings until such time as appropriate rules and regulations have been developed and made final following a period of Notice and Comment of not less than 45 days.

Section IV – Review and Amendment

The Inspector General shall appoint a group of senior-level IGO employees to periodically review all Rules and Regulations and any suggested revisions or additions from outside sources. The Rules and Regulations group is required to submit to the Inspector General any suggestions for revisions or additions at least every two years from the date these Rules and Regulations take

effect. Any amendments to these Rules and Regulations shall be posted for a period of not less than 45 days to allow for Notice and Comment prior to becoming final.