IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

CHICAGO JOHN DINEEN LODGE #7, JOHN CATANZARA, JR., MICHAEL METTE, DAN GORMAN, FERNANDO FLORES, JIM JAKSTAVICH, DENNIS McGUIRE, ROBERT BARTLETT, and MARK TAMLO,	)	
Plaintiffs,	)	Case No. 2019CH03450
v.	)	Hon. Michael T. Mullen
CITY OF CHICAGO, CHICAGO POLICE DEPARTMENT, BRANDON JOHNSON, MAYOR of the CITY OF CHICAGO, in his official capacity, LARRY SNELLING, SUPERINTENDENT OF THE CHICAGO POLICE DEPT., in his official capacity, CIVILIAN OFFICE OF POLICE ACCOUNTABILITY, and LAKENYA WHITE, INTERIM CHIEF ADMINISTRATOR OF CIVILIAN OFFICE OF POLICE ACCOUNTABILITY, in her official capacity,	)	
Defendants.	)	

MEMORANDUM OPINION AND JUDGMENT ORDER

This matter comes before the Court on the parties' respective cross Motions for Summary Judgment on Counts I, II, and III of Plaintiffs Third Amended Complaint pursuant to 735 ILCS 5/2-1005. Plaintiffs include Chicago John Dineen Lodge No. 7 ("FOP") and eight individual plaintiffs, each an FOP member (collectively "Plaintiffs"), while Defendants include the City of Chicago, the Chicago Police Department ("CPD"), Brandon Johnson, in his official capacity as Mayor of Chicago, Larry Snelling, in his official capacity as Superintendent of CPD, the Civilian Office of Police Accountability ("COPA"), and Lakenya White, in her official capacity as Interim Chief Administrator of COPA (collectively "Defendants").

The Third Amended Complaint alleges three separate counts, each of which requests a distinct Declaratory Judgment. Plaintiffs allege that the Defendants have violated the Illinois Police Training Act[1] ("IPTA"), the Police and Community Relations Improvement Act[2] ("PCRIA"), and the Illinois Law Enforcement Officer – Worn Body Camera Act[3] ("BWCA"). In Counts I and II, the Plaintiffs have alleged that COPA employs investigators who lack the required training to conduct administrative investigations of officer-involved deaths which assess whether police officers complied with CPD rules and policies. More specifically, in Count I, Plaintiffs allege that Defendants have violated IPTA as they allege that the statute requires COPA's investigators to have lead homicide investigator ("LHI") training from the Illinois Law Enforcement Training Standards Board ("ILETSB")—training that is available only to law enforcement officers and therefore unavailable to COPA investigators. In Count II, the Plaintiffs allege that similarly, PCRIA requires COPA investigators to be law enforcement officers with ILETSB training and that COPA investigators are not law enforcement officers in violation of PCRIA. Additionally, in Count III, the Plaintiffs allege that CPD's retention of officers' body worn camera ("BWC") videos for longer than 90 days violates BWCA. The Plaintiffs seek declaratory and injunctive relief.

I. UNDISPUTED FACTS

A. COPA's Responsibilities and Its Interplay with IPTA and PCRIA

The individual Plaintiffs are each current or former CPD officers and are each officers or representatives of FOP. FOP is the sole and exclusive collective bargaining representative for all CPD officers below the rank of sergeant. Pl.[4] Ex. 6. Defendant COPA is a municipal agency that

[1] 50 ILCS 705
[2] 50 ILCS 727/1-1
[3] 50 ILCS 706/10-1
[4] Plaintiffs' Motion for Summary Judgment.

operates separately from the CPD. COPA is not a law enforcement agency, and is not vested with a duty to enforce criminal laws. Municipal Code of Chicago, Chapter 2-78-120(a)-(x) (listing powers and duties of COPA); Pl. Ex. 1, p. 1.

COPA was created in response to the recommendation of the Police Accountability Task Force ("PATF") that the Independent Police Review Authority ("IPRA") be replaced with a new independent oversight agency. Df. SOUF[5] Ex. 2, CPD00366, Ex. 3, CPD00255-256. Under the enabling ordinance, COPA is tasked with investigating officers' conduct to assess compliance with "applicable Police Department rules." MCC § 2-18-120(l). The scope of CPA investigations encompasses a comprehensive assessment of the Department member's conduct and potential violations of any applicable Department Rules. Df. SOUF Ex. 4, C001901. COPA's responsibilities include investigating "all incidents of an 'officer-involved death'." Pl. Ex. 1, pg. 1. In addition to any incident of death, any officer-involved shooting generally which involves an FOP bargaining unit member will be investigated by COPA. Pl. Ex. 7, Tr. 55, Ex. 4, Tr. 13-16. COPA's extensive duties on the scenes of officer-involved deaths ("OID") include supervising evidence collection, canvassing the area, and interviewing witnesses and police officers. Pl. Ex. 2, p. 85. COPA investigators generate reports of their investigations of OIDs and these reports are based on the evidence collected at the scene of the incident and interviews of witnesses and police officers. Pl. Ex. 4, Tr. 55-56.

Evidence collection does not begin until COPA investigators arrive at the incident scene and COPA has determined the priority of what physical evidence will be collected and then analyzed from the incident scene. Pl. Ex. 9, ¶¶ 11-12, 15. COPA investigators are the only

[5] Defendants' Statement of Undisputed Material Facts in Support of their Motion for Summary Judgment.

individuals conducting any on-scene investigation into the conduct of the involved CPD officer although they are not responsible for conducting any criminal investigation into any potential criminal conduct by individuals other than the CPD officer involved in an OID.

In interviewing police officers who responded to an incident, COPA investigators determine whether the officers should be given *Miranda* warnings or *Garrity* warnings, the latter applying to an administrative investigation and the former applying to a criminal investigation. Once an investigation report is completed, COPA is required to notify the State's Attorney's Office every time COPA is investigating an incident "involv[ing] potential criminal conduct." Pl. Ex. 3, p. 90-91. COPA refers "all officer-involved firearm discharges that strike an individual" to the State's Attorney's Office. Pl. Ex. 1, pg. 21. COPA forwards reports and evidence from its investigations to the State's Attorney's Office and also requests that the State's Attorney's Office "determine whether you identify any matters that may warrant your office pursuing any criminal charges." Pl. Ex. 5. Each referral letter states that the State's Attorney's Office is responsible for any *Garrity* review and redaction. *Id*[6].

There is a substantial difference between the training required of law enforcement officers who become LHIs and the COPA investigators who deal with OID cases. The training for LHIs is monitored and provided by the ILETSB, a state agency responsible for promoting and protecting citizen health, safety and welfare, and raising the level of law enforcement throughout the state by upgrading and maintaining a high level of training and standards for law enforcement executives and officers.

At the outset of their employment, law enforcement officers receive approximately 560 hours of training which covers 70 components of the profession. Pl. Ex. 9, ¶¶ 8-11, Ex. 10, Tr.

[6] Compelled statements protected by *Garrity v New Jersey,* 385 U.S. 493 (1987).

10. The ILETSB provides a lead investigator course and the ILETSB will not allow law enforcement officers to enroll in the ILETSB course until after they have completed their initial training. Pl. Ex. 10, Tr. 8-10. Law enforcement officers who complete this training are then issued numbered certificates by the ILETSB. *Id.* at Tr. 8-9. Under PCRIA, a lead investigator must "be a person certified by the [ILETSB] as a Lead Homicide Investigator, or similar training approved by the [ILETSB] or the Illinois State Police, or similar training provided at an [ILETSB] certified school." 50 ILCS 727/1-10(b).

COPA investigators do not receive the approximately initial 560 hours of training and do not receive the numbered certificates from the ILETSB to work as lead investigators. COPA investigators do not receive training "approved by" the ILETSB or "provided at" an ILETSB certified school. Rather, COPA investigators receive training from private vendors consisting of 40 hours of lead investigator training from a private entity for which each trainee received a non-numbered certificate. Pl. Ex. 3, Tr. 35-36, Ex. 11. A private vendor may not designate its graduates as LHIs, as the private vendor does not issue a numbered certificate, only the ILETSB. Pl. Ex. 10, Tr. 27, 59-60.

B. The BWCA and Its Requirement to Destroy Body Worn Camera Videos That Are Not "Flagged"

The BWCA, which became effective on January 1, 2016, provides that BWC videos must be retained for 90 days, after which they must be destroyed if they are not "flagged." 50 ILCS 706/10-20(a)(7)(A), (B). The BWCA requires each police agency to create a policy governing BWC videos. 50 ILCS 706/10-20(a). To meet this requirement, CPD issued Special Order S03-14, and also created an additional entry on its "Forms Retention Schedule" for BWC videos. Pl. Ex. 18, Ex. 19. Both the Special Order and additional Form Retention Schedule entry require that

BWC videos be retained for 90 days, but neither address what must be done with or to unflagged videos that are older than 90 days as mandated by the BWCA. Pl. Ex. 18, Section X, Ex. 19, p. 29. The number of "unflagged" videos that have been retained is estimated to be between 14,000,000 and 20,000,000. Pl. Ex. 17, Tr. 25-26, Ex. 21, Tr. 7, 28. Of the BWC videos retained by CPD, only a slim fraction of those videos – less than one percent – have been flagged. *See* Pl. Ex. 22. The Defendants have ***not*** destroyed any unflagged BWC videos that are older than 90 days. Pl. Ex. 20, Tr. 12.

The result of the failure to destroy any unflagged BWC videos is quite simple, each and every video remains viewable. Pl. Ex. 20, Tr. 12. CPD supervisors must view at least one BWC video per shift and unflagged videos more than 90 days old are often viewed as part of this requirement. Pl. Ex. 20, Tr. 5, 12, 16. CPD's Director of Information Technology has admitted that the removal of BWC videos from its system would be uncomplicated and further admitted that the deletion of old unflagged videos could be accomplished with little effort. Pl. Ex. 20, Tr. 56-59.

II. STANDARD OF REVIEW

Summary judgment is proper where "the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." 735 ILCS 5/2-1005(c) (West 2022). Although summary judgment aids in the expeditious disposition of a lawsuit, it is a drastic measure and should be granted only if the moving party's right to judgment is clear and free from doubt. *Traveler's Insurance Co. v. Eljer Manufacturing, Inc.,* 197 Ill. 2d 278, 292 (2001). When considering a motion for summary judgment, the court must view the record in the light most favorable to the nonmoving party. *Pielet v. Pielet,* 2012 IL 112064, ¶¶ 28-29. "The purpose of

summary judgment is not to try a question of fact, but to determine whether one exists that would preclude the entry of judgment as a matter of law. *Land v. Board of Ed. of the City of Chicago,* 202 Ill. 2d 414, 421 (2002). Although both parties disagree with each other's respective positions, by presenting cross-motions for summary judgment, they have agreed that only a question of law is involved and by doing so, they have invited the court to decide the issues based on the record. *See Pielet,* 2012 IL 112064, ¶ 29. This Court has reviewed all of the parties' submissions, as well as heard argument from the parties' counsel, agrees that no genuine issue of material fact exists due to the nature of the proceedings and further agrees that the identified issues can be decided as a matter of law.

III. CONCLUSIONS OF LAW

A. A Declaratory Judgment is Appropriate

Each of the three counts of the Third Amended Complaint seek a declaratory judgment. "The declaratory judgment procedure allows the court to take hold of a controversy one step sooner than normally—that is, after the dispute has arisen, but before steps are taken which give rise to claims for damages or other relief. The parties to the dispute can learn the consequences of their action before acting." *Beahringer v. Page*, 204 Ill. 2d 363, 372-73 (2003) (internal quotation marks omitted). A declaratory judgment action "determine[s] the rights of the parties so that the plaintiff can alter his future conduct to avoid liability." *Adkins Energy, LLC v. Delta-T Corp.*, 347 Ill. App. 3d 373, 379 (2d Dist. 2004). An action for declaratory judgment requires: (1) a plaintiff with a tangible legal interest; (2) a defendant with an opposing legal interest; and (3) an actual controversy between the parties concerning such interests. *Id.* at 376. An actual controversy "requires a showing that the underlying facts and issues of the case are not moot or premature, so as to require the court to pass judgment on mere abstract propositions of law,

render an advisory opinion, or give legal advice as to future events." *Underground Contractors Ass'n v. City of Chicago*, 66 Ill. 2d 371, 375 (1977).

"The case must, therefore, present a concrete dispute admitting of an immediate and definitive determination of the parties' rights, the resolution of which will aid in the termination of the controversy or some part thereof." *Id.* A case is moot "if no actual controversy exists or where events occur which make it impossible for the court to grant effectual relief." *Wheatley v. Board of Education of Township High School Dist. 205*, 99 Ill. 2d 481, 485 (1984). In other words, a case is considered moot where the plaintiff "secured what he basically sought and a resolution of the issues could not have any practical effect on the existing controversy." *Hanna v. City of Chicago*, 382 Ill. App. 3d 672, 676 (1st Dist. 2008) (citing *People ex rel. Newdelman v. Weaver*, 50 Ill. 2d 237, 241 (1972)).

As it is clear that the Defendants have and continue to vigorously oppose the Plaintiffs' request for the relief that is sought, the Court safely concludes that the Defendants have an opposing legal interest. The next issue is whether an "actual controversy" exists between the parties. The evidence presented by the parties makes clear that there is an actual controversy that has been identified in each of Plaintiffs' three counts as the identified matters are neither moot nor premature. COPA continues to employ civilian investigators and has conducted at least 138 OID investigations and will continue to so investigate. Pl. Ex. 42, Ex. 43. Further, CPD is retaining and will continue to retain, millions of unflagged BWC videos. Thus, a declaratory judgment is an appropriate tool to use in the present controversy.

B. Plaintiffs Have Standing to Request the Remedy They Seek

In their summary judgment motion, the Defendants initially maintain that none of the Plaintiffs have the requisite standing necessary for this court to award them the remedy that they

seek, i.e., a declaratory judgment(s). "A threshold question in any declaratory judgment action is whether the plaintiff has standing." *Morr-Fitz, Inc. v. Blagojevich*, 231 Ill. 2d 474, 489–90 (2008). To have standing, a plaintiff must identify some "immediate or threatened injury" to itself or themselves. *Underground Contractors Ass'n v. City of Chicago*, 66 Ill. 2d 371, 375, 378 (1977). The Defendants specifically argue that neither the individual Plaintiffs nor the FOP have sustained any actual or threatened injury. Further, the Defendants assert that the FOP, as an association, does not have standing. The Plaintiffs maintain that they have two forms of standing. First, both the individual Plaintiffs and the FOP assert that they have established a showing that they have sustained an actual or threatened injury. Further, the FOP separately asserts that it has established associational standing.

The standing doctrine assures that parties have a sufficient stake in the outcome of the controversy. *Scachitti v. UBS Financial Services*, 215 Ill. 2d 484, 493 (2005). But "it should not be an obstacle to the litigation of a valid claim." *People v. $1,124,905 U.S. Currency & One 1988 Chevrolet Astro Van*, 177 Ill. 2d 314, 330 (1997). The plaintiff's claimed injury must be: (1) distinct and palpable; (2) fairly traceable to defendant's actions; and (3) substantially likely to be prevented or redressed by the grant of the requested relief. *Wexler v. Wirtz Corp.*, 211 Ill. 2d 18, 23 (2004); *see Ill. Rd. & Transp. Builders Ass'n v. Cty. of Cook*, 2021 IL App (1st) 190396, ¶ 17.

Plaintiffs do not have to show that a wrong must have been committed and an injury inflicted. *Messenger v. Edgar*, 157 Ill.2d 162, 170 (1993). Standing requires "a showing that the underlying facts and issues of the case are not moot or premature, so as to require the court to pass judgment on mere abstract propositions of law, render an advisory opinion, or give legal advice as to future events." *Ill. Gamefowl Breeders Ass'n v. Block*, 75 Ill.2d 443, 450 (1979)

(internal citations omitted). Standing only requires some injury in fact to a legally cognizable interest. *Glisson v. City of Marion,* 188 Ill. 2d 211, 221 (1999). The doctrine of standing weeds out disputes brought by the merely curious, *In re Estate of Zivin*, 2015 IL App (1st) 150606, ¶ 14, and assures that cases are litigated "only by parties who have a sufficient stake in the outcome of the controversy," *People ex rel. Hartigan v. E & E Hauling, Inc.,* 153 Ill.2d 473, 482 (1992).

Associational standing refers to the ability of an association to sue as a representative body on behalf of its members. The doctrine "is firmly established in federal law" and was first adopted in Illinois in *Int'l Union of Operating Eng'rs, Local 148 v. Ill. Dep't of Empl. Sec.*, 215 Ill. 2d 37, 48 (2005). The Illinois Supreme Court expressly adopted the test for associational standing from the United States Supreme Court in *Hunt v. Washington State Apple Advertising Comm'n*, 432 U.S. 333 (1977). *See International Union*, 215 Ill. 2d at 51-52. In *Hunt*, the Supreme Court articulated a three-part test to determine if an association has standing to sue on behalf of its constituent members. An association will have standing to sue on behalf of its members when "(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Hunt*, 432 U.S. at 343.

The Plaintiffs are allegedly affected by the violations of the three identified statutes that were enacted to protect the public interest in law enforcement and to protect police officers' interests in competent investigations of OIDs by state certified personnel. This Court concludes that Plaintiffs have shown an actual or threatened injury and meet all other standing criteria. The actual or threatened injury is: "(1) distinct and palpable; (2) fairly traceable to the defendant's

actions; and (3) substantially likely to be prevented or redressed by the grant of the requested relief." *Greer v. Ill. Housing Development Authority*, 122 Ill. 2d 462, 492-93 (1988) (internal quotation marks and citations omitted). The Court finds that both FOP and the individual Plaintiffs have standing to bring their claims against Defendants for violations of IPTA, PCRIA, and the BWCA as they have a *tangible* legal interest.

1. Standing Under Counts I and II

With respect to the level of training and certification of OID investigators that is the subject of Counts I and II, Plaintiffs are entitled under IPTA and PCRIA to the protection of competent investigations of law enforcement officers with ILETSB certification in death and homicide cases resulting from OIDs.

Plaintiffs have "standing to obtain a declaration construing a statute if that party is affected by the legislation." *City of Chicago v. Dep't of Human Rights*, 141 Ill. App.3d 165, 172-73 (1st Dist. 1986). Being the target of a prosecution is sufficient, but not necessary, to establish standing. *Id.* at 172. Rather, "A party who *may* become subject to prosecution" has standing and can receive declaratory relief. *Id.* at 173 (emphasis added). Plaintiffs allege that with respect to the level of training and certification of OID investigators that is the subject of Counts I and II, they are entitled under IPTA and PCRIA to the protection to competent investigations of OIDs by law enforcement officers with ILETSB certification. As to the use of COPA investigators as LHIs in alleged violation of IPTA and PCRIA, COPA investigators' reports of officers' conduct are sent to the State's Attorney for prosecutorial review, to the Superintendent for potential discipline and to the State Board for possible decertification of an officer's status. The reports generated by COPA investigators are based on evidence obtained through alleged violations of these statutes which may result in prosecution.

Here, the individual Plaintiffs have "actual or threatened injur[ies]" sufficient to establish standing. *Underground Contractors Ass'n v. City of Chicago*, 66 Ill. 2d 371, 375, 378 (1977). FOP is alleging that the assignment of non-law enforcement officers to investigate OIDs is a violation of IPTA and PCRIA, and itself an actual injury. The three identified statutes were enacted to protect the public interest in law enforcement and to protect police officers' interests in competent investigations of OIDs. The alleged violations affect Plaintiffs by threatening an increased risk of harm to the police officer's statutory interest in competent investigations of OIDs. *Fausett v. Walgreen Co.*, 2025 IL 131444, ¶ 50[7] (citing *Petta v. Christie Bus. Holdings Co., P.C.*, 2025 IL 130337, ¶ 21[8]).

Further, Plaintiffs are affected by the interpretation of IPTA and PCRIA. Specifically, if COPA investigators training and certification fails to rise to the necessary level required by statute. If COPA investigators are required to be law enforcement officers under IPTA and PCRIA, the individual Plaintiffs have been deprived of their rights under IPTA and PCRIA to competent investigations performed by fully-trained law enforcement officers. Additionally, the injury resulting from the alleged violations of IPTA and PCRIA may lead to prosecution and officer decertification due to potentially mishandled collection and storage of evidence and the subsequent transmission of inaccurate Final Summary Reports to the State's Attorney and the State Board. These actual and/or threatened injuries, are sufficient to establish standing. *City of Chicago*, 141 Ill. App. 3d at 172.

The State Board may decertify an officer under IPTA based on certain conduct, which means that the officer would be disqualified from working as a police officer anywhere in

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[7] "[A]n increased risk of harm is [a] purely speculative injury, which is insufficient to confer standing with a complaint for *money damages*." (emphasis added).
[8] "In a complaint seeking *monetary damages* . . . an allegation of an increased risk of harm is insufficient to confer standing." (emphasis added).

Illinois. *See* 50 ILCS 705/6.2 *et seq.* COPA has a statutory obligation to notify the State Board when it believes such disqualifying conduct may have occurred. 50 ILCS 705/6.3(c)(1)(A). Plaintiffs are not required to show "different investigatory outcomes" based on COPA's investigators' work as Defendants argue. No case supports this as a "harm" standard. *Messenger v. Edgar,* 157 Ill. 2d 162, 170 (1993); *Greer v. Ill. Housing Developing Authority*, 122 Ill. 2d 462, 492-93 (1988). Plaintiffs have shown the sort of actual or threatened injuries necessary to establish standing including the threatened deprivation of rights under IPTA and PCRIA to competent investigations performed by fully-trained and state certified law enforcement officers, potentially mishandled collection and storage of evidence, and transmission of inaccurate Final Summary Reports to the State's Attorney and the State Board resulting in possible decertification and threat of prosecution.

The "distinct and palpable" standing requirement is satisfied as the relevant PCRIA provisions govern only OIDs. The subject of COPA investigations into an OID is the officer, meaning that COPA's alleged violation of those provisions deprives police officers of their statutory right to a qualified lead investigator in a manner that is different from any potential injuries to the public at large. Finally, while IPTA's text is not limited to OIDs, COPA only sends a non-law enforcement officer to act as a lead investigator when there is an OID. With respect to each statute, the violations complained of are only perpetrated against officers. Thus, the injuries are not a generalized grievance common to all members of the public, they are unique to the individual Plaintiffs. Further, the individual Plaintiffs' rights to an investigation by a law enforcement officer are arguably violated with every COPA-led investigation. As demonstrated in *Messenger* and *Greer*, Plaintiffs' legally cognizable, statutorily protected interests are injured by the statutory violations.

2. Standing Under Count III

With respect to the Defendants' unlawful retention of unflagged BWC videos that is the subject of Count III, Plaintiffs are entitled to protection of their statutory interests under BWCA that requires that the unflagged videos be destroyed after 90 days. By maintaining access to such videos, CPD supervisors are able to retrieve them for disciplinary purposes. Every BWC unflagged video ever recorded and not destroyed after 90 days remains viewable. Pl. Ex. 20, Tr. 12. Officer Tamlo confirmed that every single BWC video he has ever taken, even unflagged videos, remain in the system. Pl. Ex. 39, Tr. 32-33, 38.

The failure to destroy the videos is an injury sufficient to establish standing. CPD supervisors have, in fact, reviewed unflagged BWC videos that are more than 90 days old. Pl. Ex. 20, Tr. 55-56. Retaining BWC videos provides CPD with evidence it would not otherwise have for use in future disciplinary cases. Pl. Ex. 39, Tr. 36, 38. Multiple witnesses knew of officers who had faced discipline based on such reviews. Pl. Ex. 23, Tr. 114-15, Ex. 24, Tr. 61, Ex. 25, Tr. 34. This is an injury, as is the threat of evidence obtained improperly that could lead to discipline. Plaintiffs are entitled to protection of their interests in assuring that Defendants destroy the 90-day old unflagged videos so that they cannot be used for disciplinary purposes based on such videos.

In addition, the unlawful retention of unflagged BWC videos by Defendants violates the privacy interests of CPD officers, as well as other individuals who may be recorded and included in the BWC video footage. A stated purpose of BWCA is to provide "state-of-the-art evidence collection and additional opportunities for training and instruction…" and to standardize "protocols and procedures for the use of officer-worn body cameras to ensure that this

technology is used in furtherance of these goals while protecting individual privacy and providing consistency in its use across this State." 706 ILCS/10-5.

BWCA provides that recordings made with the BWCs are not subject to disclosure under FOIA unless the subject of the disclosure has a reasonable expectation of privacy. 50 ILCS 706/10-20 (b). Even when a video is "flagged" under BWCA as it includes, for example, the use of force, discharge of firearm, death or great bodily harm, detention or arrest[9], there is nonetheless a privacy right that exists for individuals who are recorded in that flagged video. *NBC Subsidiary (WMAQ-TV) LLC v. The Chicago Police Department and the Office of Emergency Management and Communications*, 2025 IL App (1st) 240629 at ¶ 35 (in BWC video taken at the scene of a fatal hit-and-run collision, witnesses and victims could expect their recordings to be used for law enforcement purposes, but nonetheless still had reasonable expectation that video would not be disseminated to public based on their privacy rights).

The expectation of privacy is even greater with respect to unflagged videos. Those unflagged videos do not include the types of interactions or encounters that the General Assembly has deemed necessary to flag and retain beyond 90 days for law enforcement purposes, including any detention, use of force, injury, or formal or informal complaint. 50 ILCS 706/10-20(a)(7)(B). As a result, Officers have a reasonable expectation of privacy in the unflagged videos that are to be destroyed after 90 days.

Witness testimony demonstrates that CPD supervisors have reviewed unflagged BWC videos retained past 90 days which resulted in officers facing discipline. Additionally, the failure to delete the unflagged BWC videos threaten injury to Plaintiffs in future disciplinary cases and the privacy rights of CPD officers are implicated and threatened by the Defendants' failure to

[9] *See* 50 ILCS 706/10-20(a)(7)(B)

delete unflagged BWC videos after 90 days. Each of these threatened injuries are distinct and palpable, fairly traceable to Defendants' actions, and substantially likely to be prevented or redressed by the grant of the relief requested by Plaintiffs. Further, as BWCA reaches only law enforcement officers, their BWCs, and their BWC videos, the actual or threatened injury is "distinct and palpable". The Court therefore concludes that each Plaintiff has standing to sue for the identified cause of action set forth in Count III.

3. The FOP Has Established Associational Standing

FOP seeks to protect interests germane to its purpose. FOP's Collective Bargaining Agreement recognizes the parties' intent to "establish wages, hours, standards and other terms and conditions of employment" for FOP's members. Pl. Ex. 6, at Art. 1. Its Constitution states that one purpose of FOP is "to work for and provide improvements in the … terms and conditions of employment" of its bargaining unit members. Lodge Constitution, *available at* https://www.chicagofop.org/images/assets/CONSTITUTION-BY-LAWS-September-21-2022.pdf, at 6 (last accessed Nov. 26, 2025) Discipline of bargaining unit members is a primary concern of FOP and is a mandatory subject of bargaining. *City of Chicago (Dep't of Police),* 38 PERI ¶ 20 (IL LLRB 2021). Any of the Defendants' actions that result in the threat of disciplinary action against a bargaining unit member is germane to FOP's purpose and supports associational standing for FOP.

Based upon the Court's careful review of the parties' submissions, it is quite clear as to each of the three counts in the Third Amended Complaint and certainly as it pertains to the FOP, that the injury the plaintiff members allege is not some "'generalized grievance common to all members of the public.'" *Fausett v. Walgreen Co.*, 2025 IL 131444, ¶ 20; *Alliance for the Great Lakes v. Department of Natural Resources*, 2020 IL App (1st) 182587, ¶ 32 (quoting *Greer v.*

Illinois Housing Development Authority, 122 Ill. 2d 462, 494 (1988)). Their injury is "distinct and palpable." *Wexler*, 211 Ill. 2d at 23. Further, as follows, the individual Plaintiffs, each members of the FOP, have standing under Counts I, II, and III to sue in their own right, as would other members which the FOP represents.

Defendants focus their argument on lack of injury. Regardless, the claim asserted and relief requested do not require the participation of the individual members of FOP and this action does not require consideration of the individual circumstances of any the individual members of FOP as this action raises purely a question of law, i.e., whether Defendants have complied with PCRIA, IPTA, and BWCA. *Int'l Union of Operating Eng'rs, Local 148 v. Ill. Dep't of Empl. Sec.*, 215 Ill. 2d 37, 53-54 (2005). Thus, the Court concludes that the FOP has established associational standing.

C. The Use of COPA Investigators as Lead Investigators in Officer-Involved Death Investigations Does Not Violate Either IPTA or PCRIA

1. Count I - The Illinois Police Training Act ("IPTA")

The City has home rule authority to create a civilian oversight agency such as COPA to investigate officer compliance with CPD policy in the context of OIDs and to have that agency use civilian investigators for such investigations. The Illinois Constitution gives home rule units, like the City, the power to "exercise any power and perform any function pertaining to [their] government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare." Ill. Const. Art. VII, § 6(a) and (m) (home rule power is interpreted liberally). Investigating officers' compliance with CPD policy in the context of OIDs is a police personnel matter and, as such, relates to the City's government and affairs. *See Kadzielawski v. Bd. of Fire & Police Comm'rs*, 194 Ill. App. 3d 676, 684 (1st Dist. 1990)

(home rule entities have the "authority to enact ordinances that differ from or even conflict with State law provisions concerning police and fire personnel matters").

Home rule authority can be limited only if the General Assembly enacts a statute that expressly limits home rule. *City of Chicago v. Roman*, 184 Ill. 2d 504, 517 (1998); *see also Cammacho v. City of Joliet*, 2024 IL 129263, ¶¶ 22-24 (reaffirming the requirement that statutes contain explicit language preempting home rule authority, and listing examples of explicit preemption in the Illinois Compiled Statutes). IPTA contains no express language preempting the City's home rule authority to create COPA and to charge COPA with OID investigations using civilian investigators. Indeed, IPTA specifically acknowledges a role for civilian oversight agencies. *See* 50 ILCS 705/6.3.

Even if IPTA preempted the City's home rule authority, the statute's training requirement simply does not apply to an entity like COPA, and therefore COPA is not subject to it. The IPTA training requirement at issue here is the statute's mandate that lead investigators in "death and homicide cases" must be "law enforcement officers" with ILETSB certification. 50 ILCS 705/10.11. But IPTA's regulations define "Death and Homicide Investigations" to "include only those investigations that have a substantial likelihood of an individual being charged with an offense of homicide." Ill. Admin. Code tit. 20, § 1720.310. COPA does ***not*** investigate whether someone should be charged with criminal homicide. Df. SOUF[10] ¶ 12. Instead, it investigates officers' conduct to determine compliance with CPD policies and makes "recommend[ations] to the Superintendent" as to "appropriate disciplinary or other remedial action" against CPD members who violate "applicable Police Department rules . . ." MCC § 2-78-120(l); Df. SOUF ¶¶ 7-8.

[10] Defendants' Statement of Uncontested Facts

What's more, IPTA defines "law enforcement officer" as "any police officer of a law enforcement agency who is primarily responsible for prevention or detection of crime and the enforcement of the criminal code, traffic, or highway laws of this State or any political subdivision of this State . . ." 50 ILCS 705/1. It is undisputed that COPA's investigators are not law enforcement officers. Df. SOUF ¶ 13; Pl. Ex. 10, Tr. 10, Ex. 9, ¶¶ 10-11, Ex. 7, Tr. 25, Ex. 3, Tr. 30-13, 35. Nor are COPA's investigators "primarily responsible for prevention or detection of crime" or charged with the "enforcement of the criminal code, traffic, or highway laws." Df.[11] Ex. 8. COPA's investigators conduct administrative investigations into officer-involved deaths to ensure officers' compliance with CPD policy. MCC § 2-78-120. For both of these reasons, IPTA's requirement that only law enforcement officers with ILETSB certification may be assigned as lead investigators in death and homicide cases does not apply to COPA's investigations of OIDs. For all of the above noted reasons, the Defendants' motion for summary judgment as to Count I is GRANTED and the Plaintiffs' motion for summary judgment as to Count I is DENIED.

2. Count II - The Police and Community Relations Improvement Act ("PCRIA")

PCRIA does not contain express language preempting the City's home rule authority to create a civilian oversight agency to conduct administrative investigations into officer compliance with CPD policy in the context of OIDs. Thus, to the extent the City's establishment of COPA and authorization of its administrative investigations depart from PCRIA, that departure was within the City's home rule authority. *See City of Chicago v. Roman*, 184 Ill. 2d at 517.

[11] Defendants' Cross-Motion for Summary Judgment and in Opposition to Plaintiffs' Motion for Summary Judgment.

Moreover, the undisputed evidence demonstrates that COPA has complied with PCRIA. Nothing in PCRIA requires that COPA investigators be law enforcement officers. PCRIA provides three options for training "lead investigators": "[t]he lead investigator shall be a person certified by [ILETSB] as a Lead Homicide Investigator, or similar training approved by ILETSB or the Department of State Police, or similar training provided at an [ILETSB] certified school." 50 ILCS 727/1-10(b). The evidence has established that COPA investigators have met the second prong of this provision as they received LHI training from a private vendor previously approved by ILETSB so as to have met IPTA's requirements for a training program in death and homicide investigation for law enforcement officers of local government agencies. Df. SOUF ¶ 14. Therefore, COPA Investigators' training satisfies PCRIA's second option: similar training approved by ILETSB. For all of the above noted reasons, the Defendants' motion for summary judgment as to Count II is GRANTED and the Plaintiffs' motion for summary judgment as to Count II is DENIED.

D. The Defendants' Failure to Delete Unflagged Body Worn Camera Videos After 90 Days Violates the Body Worn Camera Act ("BWCA")

BWCA expressly states: "Following the 90-day storage period, any and all recordings made with an officer-worn body camera must be destroyed, unless any encounter captured on the recording has been flagged." 50 ILCS 706/10-20(a)(7)(B). Despite the clear language of the statute, the Defendants' have enacted their own policy of the indefinite retention of officers' body-worn camera BWC videos. This ongoing practice is a blatant disregard of BWCA's clear command that videos must be destroyed after 90 days unless they have been flagged for retention on one of the seven grounds identified in BWCA, such as the death of or great bodily harm to someone depicted in the video. 50 ILCS 706/10-20(a)(7)(B)(i)-(vii). Despite these clear

legislative instructions, all unflagged BWC videos captured by CPD officers' cameras remain in CPD's system, as ***none*** have been destroyed. Pl. Ex. 20, Tr. 12, 16.

Supervisors are permitted to view all the videos, including unflagged videos stored for more than 90 days, and are required to view at least one video per shift. *Id.* Section X of CPD's Special Order S03-14 does not fully set forth the requirements of Section (a)(7)(B) of BWCA. BWCA requires destruction of the videos after 90 days, but Special Order S03-14 does not recite this requirement – it is instead silent on what happens to unflagged videos after 90 days. Pl. Ex. 18.

The federal Consent Decree entered into by the State of Illinois and City of Chicago does not provide a basis for Defendants to continue to retain all BWC videos. *See* Pl. Ex. 31. In fact, the portion of the Consent Decree that addresses BWC video retention supports the conclusion that Defendants are required to comply with the statutory language mandating deletion of unflagged videos:

> "CPD will continue to maintain a policy regarding body-worn camera video and audio recordings that will require officers to record their law-enforcement related activities, and that will **ensure the recordings are retained in compliance with** the Department's Forms Retention Schedule (CPD-11.717) **and the Illinois Law Enforcement Officer-Worn Body Camera Act.**"
>
> *Id.* at ¶ 238 (emphasis added).

CPD Deputy Chief Lewin acknowledged the Consent Decree's instruction to follow BWCA, but testified that CPD simply ignored it and followed the instructions it received from the U.S. Department of Justice. Pl. Ex. 17, Tr. 25-26, Ex. 14. The Consent Decree does not in any way prohibit the City from destroying the unflagged videos that have been held for more than 90 days. Pl. Ex. 31, ¶ 236-242. In fact, CPD Lt. Patrick O'Donnell, who is assigned to the Information and Services Division, admitted that Defendants exceed the 90-day requirement

contained within BWCA as the Defendants "are not currently deleting body-worn camera footage." Pl. Ex. 21, Tr. 10-11. Instead of destroying all the unflagged videos stored for more than 90 days which, according to Steve Maris, CPD Director of Information Technology, could be done with little effort, Defendants have retained ***all*** BWC videos. Pl. Ex. 20, Tr. 56-59. Director Maris testified that removing these videos from the system is not a complicated process and/or problem and that CPD has never destroyed the videos that were more than 90 days old. *Id.* at Tr. 27-8, 59.

The unlawful retention of unflagged BWC videos by Defendants violates the privacy interests of CPD officers, who have a reasonable expectation of privacy with respect to BWC video footage that has not been flagged and which is required by law to be destroyed after 90 days. Defendants certainly have never had any authority to retain and/or disclose unflagged BWC videos that have been stored in excess of 90 days. The evidence is clear that the Defendants have used unflagged BWC videos that are more than 90 days old to discipline or threaten discipline against officers. Officers are aware they could be disciplined in the future and that unflagged videos could be used as evidence in such cases. Pl. Ex. 25, Tr. 22-23, Ex. 28, Tr. 26-27, Ex. 33, Tr. 36. Most FOP Executive Board members know of an officer or officers who have been disciplined on the basis of their supervisors' review of unflagged BWC videos that are more than 90 days old. Pl. Ex. 23, Tr. 114-15, Ex. 24, Tr. 61, Ex. 25, Tr. 34.

BWCA protects this statewide privacy interest of CPD officers by the following requirement: "All law enforcement agencies must employ the use of officer-worn body cameras in accordance with the provision of this Act, whether or not the agency receives or has received monies from the Law Enforcement Camera Grant Fund." 50 ILCS 706/10-15(a). To advance this requirement, the law sets out a time frame for its implementation and state-based financial

assistance that is available for cities and towns to purchase the BWCs. All law enforcement agencies based on population size are to have installed the BWCs between January 1, 2022, to January 1, 2025. 50 ILCS 706/10-15 (b). A stated purpose of BWCA is to provide "state-of-the-art evidence collection and additional opportunities for training and instruction..." and to standardize "protocols and procedures for the use of officer-worn body cameras to ensure that this technology is used in furtherance of these goals while protecting individual privacy and providing consistency in its use across this State." 706 ILCS/10-5 (emphasis added). BWCA also specifies the equipment for the cameras, how they will be used and requirements that include the destruction of unflagged videos 90 days. 5 ILCS 706/10-20(a)(1) to (11).

Although the Defendants assert that they are not covered by BWCA, this assertion is negated by the fact that the CPD prepares an annual report of its body worn camera activities required by the Act. In 2021, CPD submitted its annual report on BWCs to the State Board. Pl. Ex. 52, pg. 1. CPD specifically stated that it did this "in compliance with 50 ILCS 706/10-25," and provided all the information required by that statutory section. *Id.* at pgs. 1-3.

In addition to this report, the Defendants have negotiated and signed a contract with AXON, the company contracted to store the City's BWC videos. The contract requires AXON to maintain and dispose of those videos in accordance with BWCA and is additional evidence that the City has acknowledged its own responsibilities under BWCA. Pl. Ex. 38, § 3.2.1.6.2.1, Ex. 37, § 3.2.1.7.2.1. It is clear that the Defendants have failed to destroy unflagged body-worn camera video footage after 90 days in violation BWCA. 50 ILCS 706/10-1. For all of the above noted reasons, the Plaintiffs' motion for summary judgment as to Count III is GRANTED and the Defendants' motion for summary judgment as to Count III is DENIED. As such, the Defendants will be enjoined and prohibited from retaining unflagged body-worn camera video

footage after 90 days. Further, the Defendants shall destroy any and all unflagged body-worn camera video footage that has been retained for more than 90 days, within 60 days of the entry of this order, and no later than March 23, 2026.

III. CONCLUSION

For the foregoing reasons, **IT IS HEREBY ORDERED**:

1. The Plaintiffs' Motions for Summary Judgment as to Counts I and II are DENIED;
2. The Defendants' Motions for Summary Judgment as to Counts I and II are GRANTED;
3. The Defendants' Motion for Summary Judgment as to Counts III is DENIED;
4. The Plaintiffs' Motion for Summary Judgment as to Counts III is GRANTED;
5. Defendants are hereby enjoined and prohibited from retaining unflagged body-worn camera video footage after 90 days; and
6. Defendants shall destroy all unflagged body-worn camera video footage that has been retained for more than 90 days, within 60 days of the entry of this order, and no later than March 23, 2026.

IT IS SO ORDERED. THIS IS A FINAL ORDER.

1-21-2026
Date

Judge Michael T. Mullen

ENTERED
Judge Michael T. Mullen-2084
JAN 21 2026
MARIYANA T. SPYROPOULOS
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL