



Chicago Police Board

Allegations of Police Misconduct: A Guide to the Complaint and Disciplinary Process

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The purpose of this guide is to increase understanding of the process for handling allegations of misconduct by Chicago police officers. The guide consists of two main sections: the first summarizes how complaints of misconduct are received and investigated; the second describes the role of the Police Board, an independent body of nine civilians.

The Civilian Office of Police Accountability (COPA), the Police Department, and the Police Board have different roles. The responsibility to receive complaints rests with COPA. Depending on the nature of the allegations, either COPA or the Police Department will investigate the complaint. The Police Board's role is to decide those disciplinary matters that are filed with the Board. The Board cannot on its own reach out and investigate or hold a disciplinary hearing against a police officer suspected of misconduct; rather, the Board can take action only after the Superintendent of Police files charges against an officer, or suspends an officer who then requests review of the suspension.

The Board understands the concerns and frustrations that people may have about police misconduct, but is legally obligated to remain neutral and fair, just as is expected of a judge in court.

I. Complaints of Misconduct

As noted above, COPA, an independent City agency, is responsible for receiving all complaints of misconduct made against members of the Police Department. In addition to a member of the public filing a complaint, Police Department personnel, including supervisors, may file a complaint against a Department member.

Investigation of Complaints

Once a complaint is received, an investigation is initiated. Off-duty as well as on-duty conduct may be the subject of investigation. Whatever the nature of the complaint, it is framed for investigation in terms of an alleged violation of one or more of the Police Department's Rules of Conduct.

COPA is directly responsible for conducting investigations into allegations of the use of excessive force, police shootings where an officer discharges his/her weapon and strikes someone, deaths in custody, improper searches or seizures, denial of access to counsel, coercion, verbal abuse, and domestic violence, COPA also investigates allegations of off-duty misconduct relating to excessive force and weapon-discharge incidents. All complaints concerning other types of alleged misconduct are referred to the Police Department's Bureau of Internal Affairs (BIA) for investigation.

Detailed information on the investigative process and results is available on COPA's website at www.ChicagoCOPA.org.

Results of the Investigation

Once the investigation is completed, each allegation against the Department member is classified as one of the following:

- *Sustained*—the allegation is supported by sufficient evidence to justify disciplinary action;
- *Not sustained*—there is insufficient evidence to either prove or disprove the allegation;
- *Unfounded*—the allegation is false or not factual; or
- *Exonerated*—the incident occurred but the actions of the accused were lawful and proper.

If the head of COPA or BIA (depending on which unit conducted the investigation) recommends that one or more allegations be *sustained*, a recommendation for discipline is submitted to the Superintendent of Police.

The Superintendent must respond to a disciplinary recommendation from COPA within 60 days. If the Superintendent proposes less discipline than COPA, the Superintendent and the Chief Administrator of COPA must meet to discuss the matter. If the Chief Administrator does not concur with the Superintendent's reasons for the differing disciplinary action, the Chief Administrator shall refer the matter for review by one member of the Police Board who is selected at random.

If the Board member determines that the Superintendent's response does not meet its burden of overcoming the Chief Administrator's recommendation for discipline, the recommendation shall be deemed to be accepted by the Superintendent. The Board member must recuse her/himself from any future involvement with such case by the full Police Board.

II. The Police Board's Role

The Police Board's role in the disciplinary process is determined by the severity of the discipline that may be imposed against a Department member.

Discharge Cases

In order to have a sworn officer discharged from the Chicago Police Department, the Superintendent of Police must file with the Board charges against the officer. When charges are filed, the officer is suspended without pay pending the outcome of the case. The case is assigned to one of the Board's hearing officers on a rotating basis and is placed on the calendar for an initial status hearing. By the first status hearing, the officer (sometimes referred to as the respondent) will usually have obtained legal representation. The officer's attorney and an attorney from the City's Corporation Counsel's office, who represents the Superintendent, engage in discovery and other pre-hearing matters. An evidentiary hearing is then scheduled.

The evidentiary hearing resembles a trial in court, although not as formal. The typical case begins with opening statements. The Superintendent's case against the officer is presented first, followed by the officer's defense. Each party may call and examine witnesses (the Board has its own subpoena power to ensure the presence of witnesses). The opposing party may cross-examine the witnesses. Hearsay evidence is not admissible. Following the officer's case, the Superintendent's attorney has an opportunity to offer rebuttal evidence. The hearing concludes with closing arguments.

The hearing officer presides over the hearing, ruling on objections, receiving evidence, and deciding other legal issues. The proceedings are transcribed by a court reporter and the testimony of witnesses is video-recorded. The hearings are open to the public.

Once a hearing is completed, the Board members receive the entire transcript of the case and the

video-recordings. In preparation for their monthly meeting, the Board members thoroughly read and view this material. Meeting in executive session (closed to all except the Board and its staff), the Board receives an oral report from the hearing officer, discusses the case in detail, and directs the hearing officer to prepare a draft of the Board's findings and decision.

By law, the Board must base its findings and decision only on the record of the hearing—that is, sworn testimony and other evidence admitted in the case. The Board uses a two-step process when deciding a case. First, the Board decides whether the officer is guilty of one or more of the charges filed. The officer is considered innocent until proven guilty, and the Superintendent has the burden to prove the charges by a preponderance of the evidence (a less rigorous standard than the beyond-a-reasonable-doubt standard used in criminal cases). Second, if the Board finds the officer guilty of one or more charges, it determines the penalty after considering the officer's complimentary and disciplinary histories. The penalty may be discharge or suspension without pay (in certain types of cases the Board may attach conditions to a suspension, such as treatment for alcohol abuse or domestic violence). If the Board finds the officer not guilty of all charges, the officer is restored to duty and awarded back-pay for the time served under suspension.

In the month after the executive session at which the Board considered the case, the Board takes final action on the case at its public meeting. The Board makes decisions by majority vote—that is, the votes of at least five of the Board's nine members are required for the Board to take final action. The Board then issues its written findings and decision, which are sent to the Superintendent, the officer, and their attorneys. The findings and decision are posted on the Board's website within ten business days, as required by the Municipal Code.

Suspension Cases

The Superintendent has the authority to suspend an officer below the rank of sergeant for up to one year without pay. An officer who is suspended for a period from thirty-one days through one year may request a Police Board review of the suspension. If the officer makes such a request, the Superintendent is to then file with the Board charges against the officer. The matter will then proceed according to the same rules governing the cases described above.

The Superintendent has the authority to suspend a supervisor (rank of sergeant or above) for up to thirty days without pay. To recommend suspending a supervisor for more than thirty days, the Superintendent must file written charges, and the Board will then hold an evidentiary hearing, as described above.

Under the union contracts that took effect in 2014, police officers and supervisors no longer have the option of requesting Police Board review of a suspension of 30 days or fewer (except in cases in which the union decides to not advance a police officer's grievance to arbitration).

Appeals of Police Board Decisions

A Police Board decision may be reversed only by a court. That is, the Board's decision is not subject to the Superintendent's approval, nor may the officer challenge the decision by filing a grievance with the union.

Under Illinois law, the parties to a Police Board case (the Superintendent and the officer) have the right to appeal the Board's decision by filing a petition for administrative review in the Circuit Court of Cook County. A party dissatisfied with the Circuit Court's review of a Police Board case may appeal to the Appellate Court of Illinois. Following an adverse ruling at this level, a party may attempt a further appeal to the Supreme Court of Illinois.

**For more information
on the Police Board go to
www.ChicagoPoliceBoard.org**