



CITY OF CHICAGO

CHICAGO POLICE BOARD

## **ALLEGATIONS OF POLICE MISCONDUCT: A GUIDE TO THE COMPLAINT AND DISCIPLINARY PROCESS 31 May 2024**

The process for addressing allegations of misconduct by sworn officers of the Chicago Police Department (CPD) is carried out by several independent City agencies, each of which has a different role. This guide summarizes how complaints of misconduct are received and investigated, and then describes the role of the Police Board.

The Civilian Office of Police Accountability (COPA), CPD, and the Police Board have different powers and duties. The responsibility to receive complaints of alleged misconduct by sworn officers rests with COPA (any member of the public who has a complaint about the conduct of a CPD officer should file it with COPA—go to [ChicagoCOPA.org](http://ChicagoCOPA.org) for more information). Depending on the nature of the allegations, either COPA or CPD investigates the complaint; in certain instances, the complaint is referred for investigation to the City's Office of Inspector General (OIG).

Following the conclusion of an investigation, the Police Board's role is to decide those disciplinary cases that are filed with the Board. The Board cannot on its own reach out and investigate or hold a disciplinary hearing against a CPD officer suspected of misconduct; rather, the Board can take action only after the Superintendent of Police files charges against an officer. 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.

### **A Complaint is Received and Investigated**

As noted above, COPA is responsible for receiving all complaints of alleged misconduct made against an officer. In addition to a member of the public filing a complaint, CPD personnel, including supervisors, may file a complaint against an officer.

### **Investigation of Complaints**

Once a complaint is received, an investigation is initiated. COPA is responsible for conducting investigations into allegations of the following types of misconduct: excessive force, improper search or seizure, unlawful denial of access to counsel, sexual misconduct, coercion, bias-based verbal abuse, and domestic violence.

COPA also investigates certain incidents even if no allegation of misconduct has been made, including all incidents where: (1) a CPD officer discharges a firearm in a manner that could potentially strike someone, or discharges a taser in a manner that results in death or serious bodily injury; and (2) a person dies or sustains a serious bodily injury while detained or in police custody, or as a result of police actions.

Complaints concerning types of alleged misconduct other than those within COPA's jurisdiction are referred to CPD's Bureau of Internal Affairs (BIA) for investigation. Allegations investigated by BIA include but are not limited to criminal misconduct, operational violations, theft of money or property, planting of drugs, substance abuse, residency violations, and medical-roll abuse.

### **Results of the Investigation**

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

- *Sustained*—the allegation is supported by a preponderance of the evidence;
- *Not sustained*—there is insufficient evidence to either prove or disprove the allegation;
- *Unfounded*—the allegation is false or not factual; or
- *Exonerated*—the conduct occurred but it was lawful and proper.

If the head of COPA, BIA, or OIG (depending on which agency 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 the Chief Administrator of COPA within 90 days. If the Superintendent proposes *no discipline or less discipline* than Chief Administrator, they must meet to discuss the matter. If they are unable to reach agreement, the Chief Administrator shall refer the matter to one member of the Police Board.

The randomly-selected Police Board member shall then rule on the disagreement between the Chief Administrator and the Superintendent. If, in the opinion of the reviewing member:

- 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 Superintendent's response meets its burden of overcoming the Chief Administrator's recommendation for discipline, the Superintendent's response shall be implemented.

The reviewing member must recuse her/himself from any future involvement with such case by the full Police Board.

## **The Police Board's Role**

Think of the Police Board like a court. The Police Board's role in the disciplinary process is to decide whether the charges brought against an officer are proved by a preponderance of the evidence and, if so, to determine the discipline that will be imposed against the officer. Whether a case comes to the Police Board depends on the severity of the discipline recommended.

### **Discharge Cases**

The Police Board decides disciplinary cases when the Superintendent of Police files with the Board charges recommending that a sworn officer be *discharged from the CPD*. When charges are filed, the accused officer is often suspended without pay pending the outcome of the case. The case is assigned to one of the Board's hearing officers and is placed on the calendar for an initial status hearing. By this first status hearing, the officer (sometimes referred to as the Respondent) will usually have obtained legal representation. The Respondent'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. The hearing begins with opening statements. The Superintendent's case against the Respondent is presented first, followed by the Respondent's defense. Each party may call and examine witnesses, who testify under oath (the Board has its own subpoena power to ensure the presence of witnesses). The opposing party has a right to cross-examine the witnesses. Hearsay is not admissible. Following the Respondent'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 video recorded. The hearings are open to the public.

Once the hearing is completed, the Board members receive a written report from the hearing officer along with the transcript and video recording of the entire hearing as well as all exhibits made part of the record. The Board members thoroughly read and view this material in preparation for their monthly meeting. 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 preliminary 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 discussing a case. First, the Board discusses whether the Respondent is guilty of one or more of the charges filed. The Respondent 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 Respondent guilty of

one or more charges, it discusses discipline after considering any evidence presented in mitigation or aggravation. The discipline may be discharge from the CPD or suspension without pay (in certain types of cases the Board may attach conditions to a suspension, such as treatment for alcohol abuse). If the Board finds the Respondent not guilty of all charges, the Respondent will be restored to duty and awarded back pay for any time served under suspension.

In a month after the executive session at which the Board discussed 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 decision, which includes detailed explanations of the reasons for the Board’s action. The written decision is sent to the Superintendent and the Respondent and then posted on the Board’s website, as required by the Municipal Code.

### **Suspension Cases**

The Police Board decides suspension cases when: (1) the Superintendent files charges recommending that a CPD officer be suspended for more than one year, or (2) an officer below the rank of sergeant requests Police Board review of a suspension of 31 – 365 days. The case will then proceed according to the same rules governing discharge cases (see above).

An officer below the rank of sergeant who is suspended for 30 days or fewer may request Police Board review of the suspension only if 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 Respondent challenge the decision by filing a grievance.

Under Illinois law, the parties to a Police Board case (the Superintendent and the Respondent) 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.

***More information is available at [www.Chicago.gov/PoliceBoard](http://www.Chicago.gov/PoliceBoard)***