



# COMPLAINT AND DISCIPLINARY SYSTEM



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## I. PURPOSE

This directive:

- A. outlines the policy for the Department's complaint and disciplinary system, including Log Number investigations, the duty-to-report complaints, and cooperating with Log Number investigations.
- B. introduces the use of the Case Management System (CMS) for Log Number investigations initiated on or after 11 February 2019.
- C. continues the use of the:
  - 1. CLEAR Automated Complaint System (ACS) to process Log Number investigations previously initiated within the ACS. The ACS is no longer used to initiate Log Number investigations.
  - 2. CLEAR Automated Summary Punishment Action Request (SPAR) System.
  - 3. Bureau of Internal Affairs (BIA) forms and reports as listed in the CPD-44.000 series of forms.

## II. GUIDING PRINCIPLES

- A. The goals of the Department's accountability structure are to:
  - 1. foster trust in the Department while upholding the Department's Vision consistent with the Department directive titled "Vision, Mission Statement, and Core Values."
  - 2. provide members of the community and Department members a voice in the complaint and disciplinary process to establish confidence in investigations of complaints.
  - 3. improve the effectiveness of Department operations, while promoting employee safety, morale, and commitment to the Department's Mission Statement and Core Values.
- B. To achieve these goals, the Department has a complaint and disciplinary system that:
  - 1. provides members of the public numerous opportunities and methods to submit complaints against Department members.
  - 2. requires the Department to receive, accept, and document all submitted complaints.
  - 3. requires thorough, fair, timely, consistent, and efficient investigations of complaints.
  - 4. affords Department members due process, while holding them accountable for their conduct and exercise of their authority with professionalism and integrity.

## III. THE DEPARTMENT'S COMPLAINT AND DISCIPLINARY SYSTEM

- A. The Department's complaint and disciplinary system is governed by a series of Department-wide and unit-level directives. Complaints and suspected violations of the Rules and Regulations of the Chicago Police Department, directives, or orders by any sworn or civilian member of the Chicago

Police Department, with the exception of Department employees designated as temporary (e.g., seasonal temporary and internship program employees), will be processed in accordance with the provisions of these directives as outlined below.

- B. This directive establishes the foundation for the Department's complaint and disciplinary system by identifying the core policies and key responsibilities of Department members. The addenda to this directive provide specific guidelines that support the foundational aspects of the policy and are divided into the following topic-specific directives:
1. "Department Member Bill of Rights";
  2. "Complaint Initiation and Assignment of Log Number Investigations"; and
  3. "Conflicts of Interest."
- C. The Department directive titled "Complaint and Disciplinary Investigators and Investigations" outlines the procedural components of the Department's complaint and disciplinary system. The addenda to that directive outline the specific Department functions, operations, or processes associated with Log Number investigations and are divided into the following topic-specific directives:
1. "Conduct of Log Number Investigations";
  2. "Special Situations Involving Misconduct";
  3. "Command Channel Review";
  4. "Documenting Log Number Investigations and Post-Investigation Procedures"; and
  5. "Summary Punishment."
- D. Consistent with the Department directive titled "Department Directives System," the Chief, BIA, has the authority to establish and implement unit-level directives associated with the Department's complaint and disciplinary system to support the consistent application of the policies and procedures outlined in the above-listed Department directives. These unit-level directives provide guidance to members assigned to BIA and accountability sergeants in the performance of their specific duties, processes, and functions.

#### **IV. POLICY**

- A. The Superintendent is charged with the responsibility and has the authority to maintain discipline within the Department. Accordingly, the Superintendent must ensure that Log Number investigations are conducted consistent with the provisions outlined in this directive to provide Department members with the fundamental principles of fairness and to ensure that members are afforded all their rights. These rights will also be understood to mean the provisions of the applicable collective bargaining agreements between the City of Chicago, Department of Police, and Department members.
- B. Consistent with the Rules and Regulations of the Chicago Police Department, it is essential that public confidence be maintained in the ability of the Department to investigate and properly adjudicate complaints against its members. Additionally, the Department has the responsibility to seek out and discipline those whose conduct discredits the Department or impairs its effective operation. The rights of the accused member and the members of the public must be preserved and any Log Number investigation arising from a complaint must be conducted fairly, impartially, and efficiently, with evidence-based findings as its primary objective.
- C. All members will comply with the Rules and Regulations of the Chicago Police Department, directives, and orders. Members who fail to comply hinder the effective performance of the Department's functions. This failure to comply will be considered just cause for disciplinary action. Sworn members will be held strictly accountable for properly exercising the authority they have been given to protect the rights, lives, and property of all individuals. At the same time, Department members must be protected against false complaints. This can only be accomplished through a consistent, fair, and thorough investigative process.

1. BIA investigators and accountability sergeants will conduct objective, comprehensive, and timely Log Number investigations into complaints to establish facts of the incident to support or disprove the allegations.
2. Investigative findings will be supported by the appropriate standard of proof and documented in writing. The assigned BIA investigator or accountability sergeant will determine the investigative findings as:
  - a. "sustained" when the complaint is supported by a preponderance of the evidence.
  - b. "not sustained" when there is insufficient evidence to prove the complaint by a preponderance of the evidence.
  - c. "unfounded" when, by clear and convincing evidence, the complaint is false or not factual.
  - d. "exonerated" when, by clear and convincing evidence, the conduct described in the complaint occurred but is lawful and proper.

D. Department members:

1. will perform their duties consistent with the Department directive titled "Complaint Initiation and Assignment of Log Number Investigations."
2. have a duty to promptly report misconduct. Every Department member will promptly report:
  - a. any known or observed violations of Department policy, the Rules and Regulations of the Chicago Police Department, or the law.
  - b. any other allegations of misconduct he or she is made aware of.
3. will not refuse to accept, discourage reporting, or provide false or misleading information about filing a complaint.
4. will cooperate with any ongoing administrative Log Number investigation and with personnel from the COPA, BIA, and accountability sergeants including, but not limited to:
  - a. providing all requested documents and evidence under the Department member's custody and control;
  - b. truthfully answering questions relating to the investigation and their official duties, actions, or obligations as a Department member; and
  - c. cooperating fully with directions to report to and appear for administrative interviews with COPA, OIG, BIA, or accountability sergeants and acknowledge receipt of the service of allegations.
5. will not interfere with or undermine any investigation into complaints, including refusing to answer questions, being untruthful during an investigation, colluding with others to undermine the investigation, or intentionally withholding requested evidence or information from an investigator. Department members who take such action will be subject to disciplinary action consistent with this directive.
6. who are not directly assigned to a Log Number investigation, including members in command channel review (CCR), will not contact reporting parties, victims, or witnesses for the purpose of reinvestigating, obtaining additional information, or clarifying information regarding the case.
  - a. This prohibition does not apply to Department members directed by the Superintendent to ensure compliance with this directive.
  - b. A Department member within the CCR process with concerns regarding missing, erroneous, or vague information related to a Log Number investigation will identify those concerns and document a detailed justification on the appropriate

nonconcurrency report consistent with the Department directive titled "Command Channel Review."

7. may be disciplined up to and including separation from the Department for misconduct, including failing to report misconduct, interfering with an ongoing Log Number investigation, or refusing to cooperate or answer questions during the investigation.

E. Certain rights afforded to Department members relative to the conduct of a Log Number investigation are set forth in the Department directive titled "Department Member Bill of Rights."

F. Department member in-person interviews conducted by BIA as part of a Log Number investigation will be audio recorded consistent with BIA unit-level directives and collective bargaining agreements.

G. Consistent with the Department titled "Prohibition of Retaliation," the Department strictly prohibits all forms of retaliation, intimidation, coercion, or adverse action against any person who reports misconduct or cooperates with a Log Number investigation.

## **V. THE SWORN AFFIDAVIT REQUIREMENT**

A. The collective bargaining agreements for sworn members require that BIA investigators and accountability sergeants obtain a signed sworn affidavit from the reporting party/subject before converting a Log Number's classification type from "Information/Complaint" to "CR" and proceeding past the preliminary investigation in most situations.

**NOTE:** Sworn affidavits are not required to conduct a preliminary investigation.

B. Exceptions to the sworn affidavit requirement vary depending on the accused member's collective bargaining agreement. Details regarding those exceptions are set forth in the Department directive titled "Conduct of the Complaint Investigations" and the applicable bargaining agreements.

C. BIA will establish specific procedures regarding sworn affidavits and the exceptions to the sworn affidavit requirement in a unit-level directive or standard operating procedure (SOP).

D. Sworn affidavits are not required when the reporting party/subject is a Department member.

E. Sworn affidavits are not required when the only accused is a civilian Department member.

## **VI. ADMONISHMENTS**

A. A supervisor, commanding officer, or any member acting in such capacity will immediately correct or admonish a subordinate if the nature or circumstances of an incident do not warrant a reprimand or formal disciplinary action. If immediate correction or admonishment is not effective, (e.g., the conduct of the member indicates a repetitive pattern of irregularities), Department supervisors will take the appropriate disciplinary actions, including the use of summary punishment as outlined in the Department directive titled "Summary Punishment" or the initiation of a Log Number.

B. Consistent with the Rules and Regulations of the Chicago Police Department and applicable Department directives, Department supervisors will:

1. determine the appropriate disciplinary process and level of discipline to achieve the goal of correcting adverse behavior.

2. retain the flexibility, authority, and discretion to issue reprimands to offending Department members for infractions.

## **VII. SPECIFIC RESPONSIBILITIES FOR THE COMPLAINANT AND DISCIPLINARY PROCESS**

A. Superintendent of Police

1. The Superintendent of Police retains the discretion to restrict the duties of sworn Department members in response to complaints.

2. The Superintendent of Police will ensure the review of recommendations for disciplinary action and will take such action as the Superintendent deems appropriate.

Nothing in this directive diminishes the authority of the Superintendent of Police to order suspensions, to separate provisional employees or probationary employees, or to file charges with the Police Board without regard to recommendations made by subordinates.

3. The authorization of the Superintendent of Police is required to initiate a Log Number investigation involving incidents that allegedly occurred five years or more before the date that COPA, the Department, or the OIG became aware of the allegations. The Superintendent will respond to any requests for authorization from COPA, the Department, or the OIG within 30 days of the request.

B. BIA will:

1. conduct proactive investigations and integrity tests.
2. provide consultation and guidance to accountability sergeants, consistent with the Department directive titled "Complaint and Disciplinary Investigators and Investigations," and to other Department members responsible for aspects of the complaint and disciplinary process and Log Number investigations.
3. establish and maintain a liaison with the Cook County State's Attorney's Office, the United States Attorney's Office, the courts, other law enforcement agencies, and community groups.
4. review all Log Number investigations in which a member is recommended for separation.
5. assist the Office of the Corporation Counsel in the preparation of cases for presentation to the Chicago Police Board as determined to be appropriate by the Superintendent of Police through the General Counsel.
6. represent the Superintendent in matters as directed.
7. Publish annual and quarterly reports that include:
  - a. aggregate data on the classification of allegations, reporting party/subject demographic information, and complaints received from anonymous or reporting party/third parties;
  - b. aggregate data on complaints received from the public, specified by district or unit of assignment and subcategorized by classification of allegations;
  - c. aggregate data on the processing of Log Number investigations, including:
    - (1) The average time from the receipt of the complaint to the next or initial contact with the reporting party/subject or his or her representative;
    - (2) the average time from the investigative findings and recommendations to the final disciplinary decision;
    - (3) the average time from the investigative findings and recommendations to a final disposition; and
    - (4) the number of investigations closed based on the absence of a sworn affidavit, including the number of attempts (if any) to obtain an override affidavit in the absence of a signed sworn affidavit;
  - d. aggregate data on the outcomes of Log Number investigations, including the number of sustained, not sustained, exonerated, and unfounded allegations; the number of sustained allegations resulting in a non-disciplinary outcome; and the number resulting in disciplinary charges;
  - e. aggregate data on discipline, including the number of Log Number investigations resulting in written reprimand, suspension, demotion, and termination;
  - f. aggregate data on grievance proceedings arising from Log Number investigations,

including: the number of cases grieved; the number of cases that proceeded before the Police Board; the number of cases that proceeded to arbitration; and the number of cases that were settled prior to a full evidentiary hearing, whether before the Police Board or in arbitration;

g. aggregate data on outcomes of misconduct investigations by classification of allegations, broken down by self-reported race, gender, and age of the reporting party/subject and the accused Department member;

h. aggregate data on:

(1) the number of Department members who have been the subject of more than two completed Log Number investigations in the previous 12 months; and

(2) the number of Department members who have had more than one sustained allegation of misconduct in the previous 12 months, including the number of sustained allegations;

i. aggregate data on Department members who have been the subject, in the previous 12 months, of more than two complaints in the following classifications of allegations, regardless of the outcome of those complaint investigations:

(1) allegations of discriminatory policing based on an individual's membership or perceived membership in an identifiable group, based upon, but not limited to: race, physical or mental disability, gender, gender identity, sexual orientation, religion, and age;

(2) allegations of excessive force; and

(3) allegations of unlawful stops, searches and arrests;

j. the disposition of misdemeanor criminal prosecutions of current Department members.

8. BIA's quarterly and annual reports will include data reflecting Log Number investigations conduct by accountability sergeants.

C. Annually, the Audit Section will identify specific aspects of the investigation and disciplinary process involving complaints investigated by BIA and accountability sergeants to be audited to assess the extent to which investigations are conducted in accordance with existing directives. These audits will involve reviews of completed investigations and any recommendations of discipline. Once completed, the Department will make the findings of this annual audit public, ensuring that any personally identifiable information is redacted.

D. Consistent with the Department directive titled "Vision, Mission, and Core Values," Department members will act in a manner to uphold the core values of the Department, including professionalism and integrity. Department members will conduct themselves in a professional manner, perform their duties ethically, and possess strong character, personal values, and mental and emotional attributes that enable them to make ethical decisions, doing what is right because it is the right thing to do.

1. To that end, Department members have a duty to report complaints and those who voluntarily come forward and provide information or assistance in Log Number investigations should be recognized for their integrity.

2. Department supervisors will review the actions of members under their command for acts of integrity and will encourage and recognize this behavior.

## **VIII. OFFICE OF THE INSPECTOR GENERAL (OIG) ONLINE COMPLAINT FORM**

A. The OIG maintains an online complaint form to anonymously report misconduct by City officials, employees (including Department members), and those doing business with the City. This complaint

form may be accessed at <https://igchicago.org/contact-us/report-fraud-waste-abuse/fraudor-corruption-report-form/>. Department members may go to the OIG website, <https://igchicago.org/>, for further information.

- B. Reports made anonymously on the OIG online complaint form will not relieve Department members of their duties under the Rules of Conduct 21 and 22 of the Chicago Police Department Rules and Regulations, which state "prohibited acts include":
1. "Rule 21: Failure to report promptly to the Department any information concerning any crime or other unlawful action."
  2. "Rule 22: Failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department."

David O. Brown  
Superintendent of Police

#### 19-47 JAB/MWK/JJR GLOSSARY TERMS:

**Accountability sergeant:** a sergeant assigned to a district or unit responsible for receiving, processing, and investigating misconduct complaints made against Department members assigned to his or her district or unit, which are referred for investigation by BIA.

**Acknowledge:** the action taken by a Department member to electronically confirm within CMS by using his or her Department log on username (PC number) and password. The electronic acknowledgment has the full effect as that of the member's written signature. If an electronic acknowledgement is not available, a paper acknowledgement and written signature can be substituted.

**Automated Complaint System (ACS):** the application for processing Log Number investigations initiated prior to 10 February 2019. The ACS is no longer used for initiating Log Numbers and will become inactive when all Log Numbers initiated therein have reached their final disposition.

**BIA investigator:** a sworn Department member assigned or detailed to BIA responsible for receiving, processing, and investigating misconduct complaints made against Department members assigned to BIA for investigation. Sergeants, police officers (assigned as detectives), and, in certain limited circumstances, police officers may serve as BIA investigators to conduct Log Number investigations.

**Case Management System (CMS):** the application for processing Log Number investigations initiated on or after 11 February 2019. The CMS maintains investigation data regarding the number, classification, and status of all Log Number investigations initiated on or after 11 February 2019, from the intake process through the final disposition.

**Civilian Office of Police Accountability (COPA):** an agency within the City of Chicago responsible for administrative investigations of certain complaints against Department members as well other as incidents in where no complaint is made. Chapter 2-78 of the Municipal of Code of Chicago establishes COPA.

**Command channel review:** a process in which exempt-level supervisors review completed Log Number investigations for allegations against members under their command.

**Complaint:** one or more allegations of misconduct reported to the Department, COPA, or the Office of the Inspector General (OIG).

**Confidential:** a designation (not classification type) given to Log Numbers of a sensitive or highly confidential nature (e.g., allegations of sexual misconduct, drug-related crimes, association with known felons, residency violations, medical roll violations, misallocation of Department resources). Such investigations may require investigative techniques such as surveillance or wire taps and may involve outside local, state, or federal agencies.

**Exempt supervisor:** a command staff member at or above the level of commander or director.

**Final disciplinary decision:** the final decision of the Superintendent or his or her designee regarding whether to issue or recommend discipline after review and consideration of the investigative findings and recommendations, including after any additional investigation conducted as a result of such review. For COPA investigations, the final disciplinary decision occurs after the conclusion of the process described in Chicago Municipal Code Section 2-78-130(a).

**Final disposition:** the status of a Log Number investigation after the final disciplinary decision and any grievance process, arbitration, Police Board proceeding, or appeal relating to the final disciplinary decision.

**Less Serious Transgression:** An act or omission which warrants prompt and appropriate action but does not require a Log Number.

**Log Number:** a unique tracking number assigned to any incident brought to the attention of the Department or COPA by a reporting party involving a Department member that may be investigated and that will be linked with all phases of the investigation and disciplinary process through the final disposition. A Log Number is classified by type to identify the incident notification or investigation's administrative process. The Log Number classification type may change based on the progress of the administrative notification and investigation of the incident; however, the Log Number itself will always remain the same, including during the grievance process, arbitration, any Police Board proceeding, or appeals therefrom thereby permitting reporting parties/subjects (or their representatives) the opportunity to track their complaints. The Department will ensure that information related to any grievance process, arbitration, Police Board proceeding, or appeals therefrom (e.g., grievance numbers and docket numbers) are entered into CMS. The Log Number classification types are:

1. **INFORMATION/COMPLAINT**—the classification given to a Log Number when it is initiated to document an allegation of misconduct.
2. **COMPLAINT REGISTER (CR)**—the classification given to a Log Number by a BIA investigator or accountability sergeant after he or she completes the preliminary investigation and obtains a sworn affidavit or sworn affidavit override, or determines that a sworn affidavit is not required to conduct a full investigation.
3. **NOTIFICATION**—the classification given to a Log Number that is initiated for administrative tracking purposes because the incident requires an immediate notification to COPA, but there is no allegation of misconduct. This notification to COPA is required for the following incidents, even when there is no allegation of misconduct:



- a) when a sworn Department member discharges a firearm (on or off duty) and another person is injured or killed by one or more bullets fired by that member, or when a sworn Department member has suffered a self-inflicted gunshot wound.
- b) when a sworn Department member discharges a firearm (on or off duty) at a person and the person is not injured or killed.
- c) unintentional firearm discharge incidents and firearm discharge incidents solely for the destruction or deterrence of an animal.
- d) Taser discharges.
- e) Oleoresin Capsicum (OC) and other chemical agent discharges.
- f) the use of chemical/smoke dispensing or distraction devices.
- g) an incident involving a motor vehicle accident with fatalities including any death resulting from a motor vehicle accident involving a Department member engaging in law enforcement activity off duty.
- h) any other miscellaneous and extraordinary incidents including death in custody, suicide in custody, or an attempted suicide in custody.

**Log Number investigation:** The process during which evidence is collected, assessed, and analyzed about an incident subsequent to the assignment of a Log Number.

**Misconduct:** Any violation of law or any Department rule, regulation, directive, or order.

**Objective verifiable evidence:** information based on facts that can be proven to be true by means of search such as analysis, measurement, and observation. Examples of objective verifiable evidence include, but are not limited to, Department calendars and schedules, swiping reports, body-worn camera video, in-car camera video systems, Police Computer Aided Dispatch (PCAD) messages, and Global Positioning System (GPS) data.

**Preliminary Investigation:** the initial investigatory steps conducted by the BIA Intake and Analytical Section and continued by the assigned BIA investigator or accountability sergeant after a complaint is received. Preliminary investigations will take all reasonable steps to discover any and all objective verifiable evidence relevant to the complaint or administrative notification through the identification, retention, review, and analysis of all available evidence, including, but not limited to, all time-sensitive evidence, audio and video evidence, physical evidence, arrest reports, photographic evidence, GPS records, computer data, and witness interviews. All reasonable steps will be taken to preserve relevant evidence identified during the preliminary investigation.

**Reporting party/subject:** the complainant that brings an incident involving a Department member that may be investigated to the attention of the Department or COPA. The reporting party/subject can be a member of the public or a sworn or civilian Department member.

**Reporting party/third party:** a Department supervisor initiating a Log Number after receiving a complaint presented by a reporting party/subject.

**Summary punishment:** an alternative disciplinary procedure for conduct defined as a less serious transgression which is observed by or comes to the attention of a Department supervisor or COPA as outlined

in the Department directive titled "Summary Punishment."

**Sworn affidavit:** a sworn written statement against a sworn Department member by a non-Department member certifying that the statement is true and correct under penalties provided by law. A copy of a sworn affidavit may be provided to a reporting party upon request.

**Sworn affidavit override:** an action taken by the Chief Administrator, Civilian Office of Police Accountability (COPA), or the Chief, BIA, when the standards defined by the appropriate collective bargaining agreement have been met to continue the investigation without the sworn affidavit requirement when objective, verifiable evidence exists and attempts to contact a reporting party are unsuccessful or the reporting party refuses to sign a sworn affidavit.

