



COMMAND CHANNEL REVIEW



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RESCINDS:	20 March 2020 Version of S08-01-03 "Command Channel Review"		
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CALEA:			

I. PURPOSE

This directive:

- A. outlines the Command Channel Review process for Department Log Number investigations, whether investigated by the Department or the Civilian Office of Police Accountability (COPA), including assignment, timeframes, procedures, and accountability review.
- B. delineates the duties and responsibilities of the Bureau of Internal Affairs (BIA) as they relate to the Command Channel Review (CCR) process.
- C. discontinues the ability for exempt-level supervisors to designate Command Channel Review assignments and responsibilities to a subordinate exempt-level supervisor in the accused member's chain of command.
- D. uses terms specific to the Chicago Police Department's complaint and disciplinary system, as defined in Department Directive titled "[Complaint and Disciplinary Definitions.](#)"

II. POLICY

- A. Through the Command Channel Review (CCR) process as outlined in this policy, the Department ensures that the recommended level of discipline for findings is consistently applied in a fair, thorough, and timely fashion, based on the nature of the misconduct. (CD ¶513)
- B. The CCR process as outlined in this policy applies to all investigations conducted by accountability sergeants, BIA Investigators, and the Civilian Office of Police Accountability (COPA) to ensure consistency in investigations and the level of discipline recommended for sustained findings regardless of the investigating entity, the accused member's unit of assignment, or the race of the complainant or the accused member. (CD ¶514)
- C. As part of this process, the Advocate and the Advocate Section:
 - 1. is responsible for managing, supporting, reviewing, and reporting on the Command Channel Review process.
 - 2. will review the entire investigative file and the CCR process, including the recommended disciplinary actions:
 - a. in a fair, thorough, and timely manner, based on the nature of the misconduct, across all districts and units, without regard for the race, or any other protected class, of the reporting party/subject or the accused Department member.
 - b. to ensure that the recommended level of discipline for sustained findings is consistently applied. (CD ¶514)
 - c. to ensure mitigating and aggravating factors are identified, consistently applied, and documented. (CD ¶513)
- D. During the review of the entire investigative file and the CCR process, the BIA Advocate and BIA Advocate Section will:

1. use previous documented information and materials from past arbitration decisions, binding summary opinions, mediations, and settlement agreements that are germane to the specific investigation;
2. ensure that the accused member's complimentary and disciplinary history information is included and was considered in the recommendation;
3. concur with the findings and recommendations or make recommendations for modifications; and
4. forward the review to the Chief of BIA for final review and approval.

III. COMMAND CHANNEL REVIEW (CCR) ASSIGNMENT

A. All completed Log Number investigations, whether investigated by accountability sergeants, BIA Investigators, or COPA, will be subject to CCR, except in the following circumstances under which CCR Bypass is authorized:

1. Investigations recommending a penalty of separation for any of the accused members.
2. Mediation agreements. [\(CPD-44.255\)](#)
3. Investigations with a finding other than Sustained, which are authorized for Command Channel Review Bypass [\(CPD-44.402\)](#) by the Chief of BIA, for the following reasons:
 - a. The Log Number is confidential in nature and the Command Channel Review Process would compromise the investigation.
 - b. The identity of subjects involved in the investigation would be compromised or scrutinized.
 - c. Any other circumstance that is sensitive in nature.

NOTE: If a Log Number investigation meets these exceptions and contains a finding of Sustained, the Chief of BIA may request that the Legal Affairs Division review the investigation to ensure that it was conducted in accordance with all complaint and disciplinary procedures and that the accused member was provided with the fundamental principles of fairness and afforded all their rights. This review by the Legal Affairs Division will be documented on a To-From- Subject Report and the Department Advocate will ensure the report is attached to the investigative file in CMS.

4. Under limited extraordinary circumstances as determined by the Chief of BIA, such as a significant number of like violations of administrative rules.
5. Cases otherwise reviewed pursuant to other methods, such as Office of the Inspector General, Labor Relations Division, or the Department of Law.

B. All completed Log Number investigations subject to CCR will receive at least two levels of review by exempt-level supervisors in the accused member's chain of command.

1. The First Level Reviewer is the first exempt-level supervisor in the member's chain of command, whether sworn or civilian.

NOTE: In some cases, a member's chain of command may not include all exempt levels (e.g. if the member works in a unit without a commander or director, the first exempt supervisor could be an Area Executive Officer or a Deputy Chief).

2. The Second Level Reviewer is the immediate exempt-level supervisor of the First Level Reviewer, whether sworn or civilian.

3. Each level of Command Channel Review will be conducted within fifteen calendar days. Any two-level Command Channel Review process will be concluded within thirty days.
 4. If either exempt-level supervisor does not complete the review within fifteen calendar days, the exempt-level supervisor is deemed to concur with the findings and recommended disciplinary actions. The designation of "deemed concur" is not a substitute for the exempt-level supervisor reviewing and concurring with the findings and discipline and is subject to the accountability review provisions in Item V of this directive.
 5. Certain circumstances and more serious allegations, as outlined in Item III-C of this directive, will require a third level of Command Channel Review conducted by the First Deputy Superintendent. Any three-level Command Channel Review process will be concluded within forty-five days.
 6. No Log Number investigation will receive more than three levels of Command Channel Review.
- C. Completed Log Number investigations meeting the below criteria will be subject to a third level of Command Channel Review which will be conducted by the First Deputy Superintendent:
1. a penalty recommendation of a suspension of sixteen days or more;
 2. sustained allegation(s) where the accused member is alleged to have committed a crime, including domestic battery;
 3. sustained allegation(s) where a complaint has been or could be made to the Equal Employment Opportunity Officer (including allegations of cultural bias, sexual harassment or other violations prohibited prevailing employment laws); or
 4. an exempt member is the accused.
- D. When assigned a completed Log Number investigation for CCR, the Assistant Advocate will identify and assign the proper exempt-level supervisors to include in the CCR using the Command Roster.
1. All efforts will be made to keep CCR assignments as close to the member's direct Chain of Command as possible.
 2. When identifying the proper exempt-level supervisors for CCR, Assistant Advocates will remember that the assignment is specific to each accused member's CURRENT unit of assignment. Therefore, when there are multiple accused members, there might be multiple, different CCR assignments. In addition, if a member has been reassigned since the incident occurred, the CCR assignment for that member might not be the member's chain of command on the incident date.
 3. The Assistant Advocate will adhere to the requirements of Department directive titled, "Conflict of Interest", when making CCR assignments.
- E. Exempt-level supervisors will notify the Advocate Section, BIA, when a conflict of interest exists or when they are projected to be unavailable to conduct CCR for fifteen days.
1. In those cases where a CCR exempt-level supervisor is not available or where a conflict of interest exists in the accused member's chain of command, the Advocate Section, BIA, will determine the appropriate CCR routing.
 2. When an assigned exempt-level supervisor notifies an Assistant Advocate that the assigned exempt-level supervisor is unavailable or has a conflict of interest previously unknown to the Advocate Section, the Assistant Advocate will refer the case to the Advocate who will reassign the CCR.

IV. COMMAND CHANNEL REVIEW (CCR) PROCEDURES

- A. Upon receipt of a Log Number investigation subject to his or her Command Channel Review, an exempt-level supervisor will review the entire investigation, including the investigation file and Summary Report, to:
1. ascertain the adequacy and timeliness of the Log Number investigation;
 2. determine that any finding or recommendation for disciplinary action is appropriate; and
 3. judge the soundness of the investigation, conclusion, and the findings.
- B. In making a concurrence determination, exempt-level supervisors conducting Command Channel Review will consider the relevant information permissible under the applicable collective bargaining agreement and will apply the policies, guidelines, and procedural elements of Log Number investigations as outlined in the Department directives governing these investigations, including but not limited to:
1. ["Complaint and Disciplinary System,"](#)
 2. ["Department Members' Bill of Rights,"](#)
 3. ["Complaint Initiation and Log Number Investigation Assignment,"](#)
 4. ["Complaint and Disciplinary Investigators and Investigations."](#)
- C. A Command Channel Review exempt-level supervisor who:
1. approves the final Log Number investigation will indicate concurrence on the appropriate CCR page.
 2. determines that additional investigation is necessary or does not concur with the investigation, the findings, or recommendations for disciplinary action will indicate his or her non-concurrence and document a detailed justification on the appropriate CCR page.
 3. has insufficient space in the CCR comments section *of CMS* to provide detailed justifications *for non-concurrence* will *forward* a To-From-Subject Report *to the Advocate Section of the Bureau of Internal Affairs with the additional justification and any supporting documentation. The Department Advocate will ensure that the To-From-Subject Report is attached to the investigative file in CMS.*
 4. determines there is evidence in sustained findings that indicates any culpability by supervisory personnel for the violation (failure of supervisory personnel at any level of command to hold subordinates accountable requires disciplinary action) and, if culpability is apparent, the exempt-level supervisor will obtain a separate Log Number and the investigation will be conducted by BIA or COPA, as appropriate.
- D. At the completion of the CCR process, including when there are conflicting determinations by the CCR exempt-level supervisors:
1. the Superintendent, or his or her designee, will provide the final disciplinary decision for Log Number investigations conducted by COPA.
 2. the Chief of BIA, or his or her designee, will provide the final disciplinary decision for Log Number investigations conducted by the Department (accountability sergeants and BIA Investigators).

V. ACCOUNTABILITY REVIEW

- A. In the event an exempt-level supervisor was deemed to concur when the review period reached beyond fifteen days, the exempt-level supervisor will provide a To-From-Subject Report to the Chief of BIA outlining the circumstances of the concurrence.

NOTE: Where a single Log Number investigation involves multiple accused members, the exempt-level supervisor may submit a single To-From-Subject Report describing the circumstances of the deemed concur.

B. The Chief of BIA, or the Chief's designee, will review the To-From-Subject Report for sufficiency and completeness of the explanation for the deemed concurred. If the report is insufficient, the Chief of BIA will request additional information from the exempt-level supervisor.

C. The Advocate Section of BIA will:

1. monitor the instances of deemed concurred and ensure that a To-From-Subject Report is on file for each instance. If a report is missing, the Advocate will notify the Chief of BIA for further guidance.
2. provide copies of the To-From-Subject Reports to the First Deputy Superintendent with the quarterly report described in Item VI-B-3 of this directive.

VI. COMMAND CHANNEL REVIEW DUTIES AND RESPONSIBILITIES OF BIA

A. The duties and responsibilities of an Assistant Advocate, BIA Advocate Section, in relation to CCR, are as follows:

1. At the conclusion of the CCR process, the Assistant Advocate will review and evaluate all CCR comments for concurrence or non-concurrence with the findings and recommended penalty.
 - a. The Assistant Advocate will ensure that each reviewer, other than those deemed concurred because the investigation was not reviewed within 15 days of assignment, has executed the conflict of interest certification.
 - b. If an exempt-level supervisor was deemed to concur when the review period extended past fifteen days, the Assistant Advocate will ensure that the exempt-level supervisor's To-From-Subject report explaining the circumstances of the concurrence has been sent to BIA. The Assistant Advocate will upload the report to the investigative file in the Case Management System (CMS) and immediately forward a copy of the report via email to the Advocate.
 - c. If an exempt-level supervisor has provided comments or additional information that could alter the findings, correct a contract violation that could otherwise prevent implementation of a penalty, or identify additional accused members, the Assistant Advocate will notify the Advocate.
2. When the CCR process has been completed for all accused members in:
 - a. an accountability sergeant or BIA Investigator investigation, the Assistant Advocate will forward all accused members with sustained allegations to the Chief of BIA for the final disciplinary decision.
 - b. a COPA investigation, the Assistant Advocate will forward all accused members with sustained allegations to the Superintendent or the Superintendent's designee for the final disciplinary decision.
3. For members who have no sustained allegations, when CCR is complete, the Assistant Advocate will place the Log Number investigation into CLOSED/FINAL status for reference and retention in the accused member's file under the applicable bargaining agreements, court orders, and state law.

4. If an accused member with sustained allegations is not employed by the Department when CCR is complete (e.g. the member is on a leave of absence, on military leave, has resigned, or has retired), the recommended discipline cannot be administered. In these situations, after the final disciplinary decision is made, the Assistant Advocate will place the Log Number investigation into CLOSED/HOLD status. The Log Number will remain in the accused's disciplinary history under the applicable bargaining agreements, court orders, and state law. If the accused returns to Department employment (e.g. returns from military leave), the discipline will be administered.

B. The duties and responsibilities of the Advocate, BIA Advocate Section, in relation to CCR, are as follows:

1. The Advocate will authorize additional investigation and return the Log Number investigation to the appropriate BIA section for additional investigation when notified that an exempt-level supervisor has:

- a. provided comments or additional information that could alter the findings;
- b. corrected a contract violation that would otherwise prevent implementation of a penalty; or
- c. identified additional accused members.

2. When notified that an assigned exempt-level supervisor has a conflict of interest, the Advocate, or the Advocate's designee, will reassign the case according to the guidelines provided in Item VI-A-1 of this directive.

3. The Advocate will prepare a Quarterly Accountability Report for the Chief of BIA and the First Deputy Superintendent.

a. The Quarterly Accountability Report will include the:

- (1) number of cases sent through CCR.
- (2) number of cases in which an exempt-level supervisor was deemed to concur.
- (3) number of cases authorized for CCR Bypass.
- (4) identification of exempt-level supervisors who were deemed to concur when the review period extended past fifteen days and the number of times each failed to meet the fifteen day deadline.

b. The Advocate will provide the Quarterly Accountability Report on the following dates, in conjunction with BIA reports provided to the Police Board:

- (1) 31 March.
- (2) 30 June.
- (3) 30 September.
- (4) 31 December.

4. The Advocate will use the information gathered for and contained in Quarterly Accountability Report to:

- a. identify exempt-level supervisors who may need supplemental training in the CCR process;
- b. determine whether the BIA Training Team's CCR training for incoming exempt-level supervisors needs to be updated or modified and notify the Training Team as needed; and

- c. *evaluate whether any changes may be needed to the CCR assignment process and consult with the Chief of BIA as needed regarding those recommendations.*

VII. CONFLICT RESOLUTION

If this directive conflicts with a provision in any other Department or BIA directive in relation to the CCR process, members will seek guidance from the Chief of BIA.

(Items indicated by *italic/double underline* were added or revised)

Authenticated by MWK

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