



CONDUCT OF COMPLAINT INVESTIGATIONS



ISSUE DATE:	30 November 2017	EFFECTIVE DATE:	30 November 2017
RESCINDS:	07 June 2017 version		
INDEX CATEGORY:	Professionalism		

I. PURPOSE

This directive:

- A. sets forth certain procedures relative to an allegation of misconduct brought against a Department member and investigated by the Department.
- B. satisfies CALEA standards Chapter 52.

II. CONDUCT OF THE INVESTIGATION

- A. Unit commanding officers will designate a primary and secondary sergeant within the unit to conduct complaint investigations. The Bureau of Internal Affairs (BIA) will normally assign investigations directly to the designated primary investigating sergeant unless assignment to the secondary investigating sergeant is requested by the unit commanding officer.
- B. If the accused is a sergeant of the unit assigned to conduct the investigation, the immediate supervisor of the accused sergeant will be assigned the investigation unless the immediate supervisor is the reporting party, witnessed the incident that resulted in the allegation being filed, is on extended medical, or is on furlough. If the immediate supervisor of the accused does not have access to the Automated Complaint System (ACS), the investigation will be referred to BIA.

NOTE: The mere initiation of an investigation does not excuse a supervisor from being assigned to investigate alleged misconduct.

- C. If the accused is the rank of lieutenant or above, the investigation will be conducted by BIA.
- D. Every effort will be made to ensure that the investigation is conducted in an impartial manner.
- E. At all times, the member assigned to investigate a Log Number will be cognizant of the policy that an accused member cannot be interviewed prior to the completion of a Sworn Affidavit for Log Number Investigation form [\[CPD-44.126 \(English or Spanish\)\]](#) or compliance with the exceptions to the sworn affidavit as articulated in the Department directive titled "**Complaint and Disciplinary Procedures.**"

NOTE: The absence of a signed Sworn Affidavit only precludes the investigator from interviewing an accused member. The sworn Affidavit process does NOT preclude an investigator from obtaining at any time sensitive evidence or conducting the interview of a reporting party, witness, or victim. However, should the reporting party, witness, or victim refuse to sign the Sworn Affidavit, an investigator will evaluate the evidence presented to determine if there is objective verifiable evidence to seek a Sworn Affidavit Override.

- F. Aside from the above provisions, the procedures defined below need not be performed in the sequence in which they are listed. The member assigned to investigate a Log Number will:
 - 1. attempt to make contact in the following ways:
 - a. immediately send a certified letter to the address provided **AND** attempt to make contact by telephone on a minimum of two separate occasions;

- b. attempt to make contact by an in-person visit, **ONLY IF** attempts to contact a reporting party telephonically are not successful.

NOTE: The above forms of contact must be attempted, when applicable, for an investigation to be CLOSED—NO CONVERSION and the finding classified as NO AFFIDAVIT. The only exception to this is if a letter of declination has been signed by the reporting party or an in-person interview with the reporting party has been conducted and the reporting party refused to sign the sworn affidavit.

2. in all instances, document the date and time each attempt was made to contact the person and the means of communication used (telephone, correspondence, personal visit) in the investigation.

NOTE: For Department investigations, the Investigator Unable To Contact Reporting Party/Victim/Witness form [[CPD-44.223 \(English or Spanish\)](#)], as appropriate, will be sent by certified mail to the person requesting that the investigator be contacted immediately. Special envelopes for this purpose (Commodity No. 23-3489-5312 certified) are available from the Equipment and Supply Section.

3. Assigned supervisors should be aware that some evidence is time sensitive. Upon being assigned an investigation or initiating a Log Number, the assigned supervisor should ensure that any time-sensitive evidence is identified, obtained, and requested. The assigned supervisor will, dependent on evidence, follow Department directives referencing procedures for the collection of evidence.
4. request the reporting party, victim, and/or witness sign the Sworn Affidavit for Log Number Investigation form, electronically attach the signed Sworn Affidavit for Log Number Investigation form into the Automated Complaint System (ACS) and, for Department investigations, forward the original to the BIA.

NOTE: A copy of a signed sworn affidavit may be provided to the reporting party upon request.

5. if attempts to contact the reporting party, victim, or witness are unsuccessful or the reporting party, victim, or witness refuses to sign the Sworn Affidavit for Log Number Investigation form for Department investigations, the assigned investigator will:

- a. electronically attach the unsigned Sworn Affidavit for Log Number Investigation form into the ACS and forward the original to the BIA Records Section. The appropriate box will be checked on the Sworn Affidavit for Log Number Investigation form to reflect either:
 - (1) **“NO AFFIDAVIT—NO CONTACT”** when repeated attempts to contact the reporting party, victim, or witness are unsuccessful; or
 - (2) **“NO AFFIDAVIT—REFUSED”** when contact is made with the reporting party, victim, or witness and the reporting party, victim, or witness refuses to sign the Sworn Affidavit for Log Number Investigation form; or

- (3) **"NO AFFIDAVIT—NO COOPERATION"** when contact is made with the reporting party and the reporting party fails to appear at the agreed upon time and place to sign the Sworn Affidavit for Log Number Investigation form.

NOTE: The member assigned to investigate the Log Number will ensure that the unsigned sworn affidavit is completed in its entirety with all available information minus the the reporting party's signature and statement (e.g., Log Number, date, time, location, and reporting party information).

- (4) **"NO AFFIDAVIT REQUIRED"** when the complainant is a Department member and the accused is a sworn member, a sworn affidavit is not required. Rule 14 of the Rules and Regulations of the Chicago Police Department prohibits making a false report, written or oral, by a Department member.

NOTE: A Department member making an allegation against another Department member must cooperate fully with the Log Investigation. At no time will a Department member be allowed to sign a letter of declination and not fully cooperate. A Sworn Affidavit for Log Number Investigation ([CPD-44.126](#)) is not required when the only accused is a civilian member.

- b. evaluate the evidence presented to determine if there is objective verifiable evidence to support the allegation(s) for a sworn affidavit override. The override will be sought in the following manner:

- (1) A To-From-Subject report requesting an override will be forwarded through the chain of command to the Chief, BIA.
- (2) The Chief, BIA, will review the information for sufficiency based on objective verifiable evidence received at that time, and:
- (a) if not sufficient, return the information to the original investigator for appropriate resolution;
 - (b) if sufficient, forward the request to the Chief Administrator, Civilian Office of Police Accountability (COPA).
- (3) The Chief Administrator, COPA, will review the information for sufficiency based on objective verifiable evidence received at that time and:
- (a) if not sufficient, return the information to the Chief, BIA, for appropriate case resolution;
 - (b) if sufficient, complete the Override Affidavit—Civilian Office of Police Accountability form ([CPD-44.128-B](#)), specifying what evidence has been reviewed and, in reliance upon that evidence, affirming that it is necessary and appropriate for the investigation to continue. The case and the Override Affidavit—Civilian Office of Police Accountability form will be forwarded to the BIA to complete the investigation.

NOTE: The Chief, BIA, will approve affidavit override requests made by COPA by reviewing the information for sufficiency based on objective verifiable evidence received. If sufficient, the Chief, BIA, will complete and forward to COPA the Override Affidavit—Bureau of Internal Affairs form ([CPD-44.128-A](#)).

6. If the investigation does not require a signed Sworn Affidavit for Log Number Investigation form, the assigned investigator will mark the "No Affidavit Required" box at the bottom of the form. The assigned investigator will then electronically attach the unsigned form in the ACS and forward the original to the BIA Records Section.
7. take statements from the parties when such statements will assist in reaching a sound conclusion in the case. If the allegation is such that the case is likely to result in a recommendation for separation, a request to reassign the Log Number will be submitted to BIA.

NOTE: Only BIA interviews will be audio recorded to ensure compliance with the policy and procedures of this directive consistent with BIA standard operating procedures.

8. inform the accused member of the nature of the allegation(s) before any interview begins.
 - a. If criminal prosecution is not being sought against the Department member, the investigator will instruct the accused member to log into the ACS and read and electronically acknowledge an Administrative Proceedings Rights (Statutory) form ([CPD-44.105](#)) to confirm that the Department member has received a copy of the specific allegation(s) and that the member has been advised of his or her statutory rights. If an electronic acknowledgement is not available, a paper acknowledgement and written signature can be substituted.

NOTE: Acknowledging the Administrative Proceedings Rights (Statutory) form is not a waiver of rights; it is a confirmation that the accused member has received the specific allegations made against him or her and that the accused has been given his or her rights.

- b. If a member is:
 - (1) requested to submit a To-From-Subject report, the member will have seventy-two hours to prepare and electronically attach the report after the charges/allegations are viewed in the ACS or received in paper form;
 - (2) not requested to submit a To-From-Subject report, members are advised to print out the charges/allegations before acknowledgment for future reference.

NOTE: **Once the charges/allegations have been acknowledged in the ACS, members will be unable to view or print the form. It will be electronically forwarded in the system.**

- c. If criminal prosecution is being sought against a Department member, the investigator will recite the accused member's constitutional rights (Miranda warnings) contained within the Criminal Rights form ([CPD-44.104](#)) and Notification of Charges/Allegations form ([CPD-44.115](#)). The accused member will then read and

acknowledge both a Notification of Charges/Allegations form and a Criminal Rights form.

NOTE: Acknowledging the forms is not a waiver of rights; it is a confirmation that the accused has been given a copy of the specific allegations made against him or her and that the accused has been given his or her rights.

- d. After the appropriate criminal or administrative rights forms have been read and acknowledged by the accused member, the member will be requested to select either a Waiver of Counsel or the Request to Secure Legal Counsel on the Waiver of Counsel/Request to Secure Counsel form ([CPD-44.106](#)).
- e. If an accused member logs into the ACS and "views" the allegation(s) but does not acknowledge them, the accused will be informed that viewing the notification of charges/allegations begins the seventy-two hours afforded to obtain counsel or representation.

NOTE: If the accused is served with appropriate criminal or administrative rights in paper form, and the accused member refuses to acknowledge the form, the investigating member will indicate "Refused" on the appropriate form(s). All witnesses to the refusal will be recorded. The exact location, including room number if applicable, date, and time of the refusal will be noted.

- f. The advice of counsel to decline to answer questions will not excuse an accused member from responding when he or she has been properly and lawfully ordered to do so by a member of higher rank.
 - g. Each time an interview is resumed on a new date, the investigator will advise the accused member of the applicable criminal or administrative rights prior to the interview. The accused member will be instructed to log into the ACS, read, and electronically acknowledge the Administrative Proceedings Rights (Statutory) form ([CPD-44.105](#)).
 - h. If the alleged act is a crime, and the evidence is such that had the crime been committed by a member of the community it would have resulted in an arrest, the investigator will explain the circumstances to his or her commanding officer. The commanding officer will contact the Chief, BIA. If the Chief, BIA, is not immediately available, the Chief, BIA, will be notified through the Crime Prevention Information Center (CPIC). The Chief, BIA, will determine any further action to be taken.
 - i. Upon the completion of the criminal portion of the investigation, the investigator will expressly inform the accused member that the criminal segment of the investigation has been concluded. If an administrative investigation is then to be initiated, the investigator will expressly inform the accused member. The accused member will also be informed that he or she must comply/cooperate with the administrative investigation which specifically relates to the alleged misconduct or to the performance of the accused member's official duties and that failure to comply/cooperate may result in further disciplinary action.
9. interview the accused member and other members who may have knowledge of the alleged misconduct, taking question and answer or audio-recorded statements as appropriate. Additionally, the member will be provided with a Receipt of Formal Statement—Department Members (CPD 44.261) form at the completion of the question-and-answer or audio-recorded statement.
- a. Only BIA interviews will be audio recorded to ensure compliance with the policy and procedures of this directive consistent with BIA standard operating procedures.

- b. Field investigators will utilize the Notification RE: Automated Complaint Form ([CPD-44.217](#)) when adding, deleting, or updating the roles of identified involved parties (e.g., accused, witnesses, complainants, victims). Once approved by the field investigator's commanding officer, the Notification RE: Automated Complaint Form will be uploaded to the ACS and a **copy will then be forwarded to BIA Records Section.**
 - c. The interviewer will remain cognizant of the member's rights as defined in the Department directive titled "**Department Member Bill of Rights**" and the applicable provisions of any collective bargaining agreement pertaining to the accused member. If the allegation is such that:
 - (1) a recommendation for separation is unlikely, the statement(s) may be in the form of reports from the member(s);
 - (2) the case is likely to result in a recommendation for discipline of more than thirty days, the statement of the accused member should be in question-and-answer format or audio-recorded format.
 - d. Exempt members and probationary police officers (PPOs) will be subject to audio-recorded statements if they are under investigation or interviewed as a witness in a disciplinary investigation. The member will be provided a copy of all statements that have been recorded within seventy-two hours of the time the statement was made. If a re-interview is required within the seventy-two-hour period following the initial interview, the exempt member or PPO will be provided with a copy of such recorded statement(s) before the subsequent interview. Furthermore, the exempt member or PPO will be provided with a Receipt of Formal Statement—Department Members (CPD-44.261) form at the completion of the audio-recorded or question-and-answer format.
10. require an accused member to submit a report and answer questions which specifically, directly, and narrowly relate to the alleged misconduct or to the performance of the accused member's official duties.
 11. notify the accused member's commanding officer when the investigation of an allegation, supported by evidence, strongly indicates unfitness for duty. The commanding officer will, in turn, ensure proper chain-of-command notification as soon as possible.
 12. not unduly extend the investigation to include minor infractions. Infractions that involve violations of the law and other irregularities that are willful, devious, serious in nature, or that involve the integrity of the Department will result in further investigation and recommendation for disciplinary action no matter what the investigation discloses regarding the original allegation.
 13. terminate the investigation when it is determined at any time that the incident is unfounded or if the member is clearly exonerated. The investigator will include all reports and statements containing information which support exonerating the accused or unfounding the allegation in the investigative file pursuant to the provisions of the Department directive titled "**Complaint Summary Reporting and Review Procedures.**"
 14. complete the investigation as soon as possible within a reasonable amount of time.
 - a. If the investigation, due to its nature or complexity, will require more than thirty days to complete:
 - (1) the field investigator will complete both a hardcopy Request for Time Extension—Log No. form ([CPD-44.114](#)) and an electronic form through the

ACS. The original documents will be forwarded through the chain of command to BIA.

NOTE: *If approved, the field investigator will notify the reporting party, victim, or witness, as outlined in Items II-F-1 and II-F-2, that a time extension has been granted for the investigation.*

(2) The BIA investigator will submit a request for time extension within the ACS. Each time extension will be submitted to his or her commanding officer for approval.

b. For BIA and COPA cases, time extensions may be waived for a time period up to ninety days.

NOTE: Time extension requests will require justification.

15. when an INFO investigation is complete, classify the Log Number as **No Affidavit** if:
 - a. the sworn affidavit is not signed by a reporting party, victim, or witness; or
 - b. there is insufficient evidence to substantiate the allegation for a sworn affidavit override.
16. when a Log Number investigation is complete, classify the allegation as one of the following:
 - a. **Unfounded**—when the allegation is false or not factual;
 - b. **Exonerated**—when the incident occurred but the actions of the accused were lawful and proper;
 - c. **Not Sustained**—when there is insufficient evidence to either prove or disprove the allegation;
 - d. **Sustained**—when the allegation is supported by substantial evidence.
17. before sustaining an allegation, the investigator will consider the following criteria in making this determination:
 - a. The member must have received forewarning or have foreknowledge of possible or probable consequences of his or her conduct. (This is satisfied by a published rule, regulation, directive, or order made known to Department members.);
 - b. A full and fair investigation established that the member did in fact violate or disobey a rule, regulation, directive, or order of the Department;
 - c. The accused was afforded an opportunity to respond to the allegation(s);
 - d. The investigation uncovered substantial evidence or proof of the allegation(s) against the accused;
 - e. The rules, regulations, directives, orders, and penalties have been applied without discrimination or bias.
18. if the allegation is sustained:
 - a. disciplinary action recommended must be reasonably related to the seriousness of the member's proven offense and gives appropriate consideration to the member's previous disciplinary and complimentary history.
 - (1) Investigating members will request the accused member's disciplinary record for penalty recommendation consideration by completing the form entitled "Request For Disciplinary Record" ([CPD-44.259](#)).

- (2) For Department investigations, either the Summary Report ([CPD-44.112](#)) or the Summary Report Digest ([CPD-44.112-A](#)) must specifically state that the accused member's previous complimentary history and disciplinary history were taken into consideration when preparing the recommendation for the disciplinary action portion of the applicable form. The accused member's complimentary history or disciplinary history will not be entered into the narrative of any report.
 - (3) For investigations conducted by COPA, the accused member's disciplinary history will be included in the electronic file and the ACS complimentary history will be reviewed.
- b. the investigative file will include all relevant information and establish the basis for recommending one of the following actions:
- (1) Violation noted, no disciplinary action;
 - (2) Reprimand;
 - (3) Suspension for a specific number of days, not to exceed three hundred sixty-five days;

NOTE: Exempt members and civilian members exempt from coverage under the overtime provisions of the [Fair Labor Standards Act \(FLSA\)](#) may only be suspended in increments of the designated work week (seven calendar days). For example, suspensions can only be for seven, fourteen, twenty-one, or twenty-eight calendar days. A disciplinary suspension may never be less than seven days.

- (4) Separation.
- c. Civilian members represented by collective bargaining units are afforded the pre-disciplinary provisions outlined in their respective collective bargaining agreements. The allegations, findings, and recommended discipline will be recorded on the Pre-Disciplinary Hearing form ([CPD-44.256](#)).
19. electronically attach reports and statements that justify the finding in accordance with the provisions of the Department directive titled "**Complaint Summary Reporting and Review Procedures.**"
- G. The commanding officer of the investigating unit is responsible for ensuring a complete and expeditious investigation of the allegation(s) and may assign other members of the unit to assist in the investigation when the investigating member is off duty or otherwise unavailable. The commanding officer will periodically check the progress of the investigation.

(Items indicated by *italics/double underline* have been added or revised.)

Authenticated by: KC

Eddie T. Johnson
Superintendent of Police

17-072 CAW

PHONE BOOK ENTRIES:

1. **Crime Prevention Information Center (CPIC)**

5-6300/pax 6191

24 Hours