

	POLICY
	Unit: Investigations
Number:	Title: Recommendations Regarding Department Member Duties and Powers
Effective Date: 6/24/21	Supersedes: 3.2.2 (8/1/19) & Appendix 3.2.2(A) – Procedures for Recommending Limit on Officer Duties or Powers (8/19/19)

Recommendations Regarding Department Member Duties and Powers

PUBLIC POLICY STATEMENT

Effective policies ensure compliance with the law, promote the use of best practices, foster integrity and independence in the performance of COPA activities, and provide transparency regarding the procedures and standards for the conduct of those activities.

An important step in any COPA investigation is the assessment of whether circumstances suggest that a Department member’s powers should be restricted. Recommending any restriction on the duties or police powers of a Department member is an extraordinary measure which takes into consideration the safety of the public that the Department members serves. Such recommendations by COPA are not undertaken lightly. Although only the Superintendent can take action to restrict the duties or powers of a Department member, such recommendation by COPA shall only be made in accordance with this policy.

PURPOSE

This policy outlines criteria for assessment of, and certain procedures for, COPA recommendations involving the restriction and restoration of duties and/or the police powers of a member of the Chicago Police Department in accordance with COPA’s authority in 2-78-120(l) of the Municipal Code of Chicago. The intention of this policy is to ensure that recommendations are consistently made in a fair, thorough, and timely fashion, based on the nature of the Department member’s conduct.

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DEFINITIONS

Term	Meaning
Major Case Incident	<p>Any of the following incidents:</p> <ul style="list-style-type: none"> • All firearm discharges by Department members. • Any death resulting from a motor vehicle accident or collision, if the Department member was engaged in law enforcement activity involving the individual or the individual's vehicle in the process of apprehension or attempt to apprehend. • Death or serious injury while in custody or detained • Other weapons discharges, equipment usage or incidents resulting in serious injury or death. • Any incident, as determined by the Chief Administrator (or designee), requiring an in-person response by on-call personnel or members of COPA's Public Information Section.
Non-Disciplinary Intervention	<p>Including, but not limited to, the following Department provided personnel support services:</p> <ul style="list-style-type: none"> • <i>Professional Counseling Division/Employee Assistance Program</i> – Confidential counseling services provided to Department members or their families for personal difficulties which may impact their personal and professional lives. • <i>Training</i> – Intended to develop policing skills, enhance leadership abilities, and promote a solid ethical foundation to all Department members. • <i>Behavioral Intervention System</i> – Intended to serve as an early identification system, based on review of Department records, including prior disciplinary investigation outcomes, to correct troublesome behavioral characteristics or conduct contrary to the goals of the Department. Placement in the Behavioral Intervention System may also include enrollment in other non-disciplinary intervention actions. • <i>Personnel Concerns Program</i> – A structured program of supervision designed for an employee that has been identified as having difficulties affecting the member's competency. The Department attempts to intervene in an employee's problems, behavior, or performance issues that, without assistance, may lead to severe disciplinary measures or separation from the Department. • <i>Physical and/or Psychological Fitness for Duty Evaluation</i> – Examinations intended to determine whether a Department member exhibits required physical stamina and psychological stability to properly perform all required duties.
Police Powers	<p>Refers to the ability of sworn Chicago Police Department members to exercise the power of arrest, lawfully carry a firearm, or exercise any other powers bestowed by virtue of employment with the Department, which may include bearing a badge or Department identification, operate Department vehicles or equipment, or attend or provide testimony in court in the capacity of a Department member unless subpoenaed.</p>

POLICIES

I. RELIEF OF DUTIES OR POWERS – SWORN DEPARTMENT MEMBERS

- A. The Chief Administrator may seek the restriction of duties or powers of a Department member if, after reviewing all available allegations and evidence, and considering the reliability and strength of such evidence, the Chief Administrator concludes that:
1. continued police duties or powers for the officer presents a threat to the community, the Department, and/or the officer; or
 2. COPA is likely to recommend that the officer be separated from employment with the Department.
- B. Any member of the Investigations Section may submit for consideration a recommendation to restrict the duties or powers of a Department member at any time during an investigation in which they are assigned when available and reliable evidence suggests such a recommendation may be appropriate. Initial discussions by the assigned investigative team (i.e., Investigator/Major Case Specialist and Supervising Investigator) regarding recommendations will be noted in the electronic case management system.
1. For all Major Cases Incidents, the responding on-call personnel or assigned investigative team will discuss whether a recommendation regarding any restrictions on the involved member(s)' duties or powers should be considered during COPA's internal briefing or prior to the end of the minimum 30 calendar day administrative duty assignment period.¹ This discussion will be noted in COPA's electronic case management system.
- C. Considerations in assessing the appropriateness of a recommendation to restrict the duties or powers of a Department member may include, but are not limited to:
1. The likelihood that the behavior under investigation will continue in the absence of restrictions on the duties or powers of the Department member.
 2. The availability of independent and corroborating evidence of misconduct to support a recommendation for separation.
 3. The extent to which, if left unaddressed, the Department member's public visibility and presence will undermine the Department's efforts to serve the public.
 4. A review of any mitigating or aggravating factors, to include prior disciplinary history.²
 5. The need to identify specific restrictions, which include, but are not limited to:
 - a. a prohibition on carrying a firearm(s) or other weapon(s);

¹ See Department Directive G03-02-03 (Firearm Discharge Incidents - Authorized Use and Post-Discharge Administrative Procedures)

² See COPA Policy (Disciplinary and Remedial Recommendations) for a non-exhaustive listing of mitigating and aggravating factors.

- b. surrendering firearm(s) pursuant to a court order;
 - c. a prohibition on exercising the power of arrest or any other police power bestowed by virtue of employment as a sworn member of the Department;
 - d. surrendering Department Star, Shield, and Identification Card;
 - e. a prohibition on driving or operating any Departmental Transportation Equipment, including but not limited to, motor vehicle, watercraft, bicycle, or any electric powered transportation equipment except as directed by a Commanding Officer;
 - f. a prohibition on attendance or testimony in any court in the capacity of a Department member unless subpoenaed;
 - g. obeying any orders given by any supervisor of the Department;
 - h. if incarcerated or held over to bond, placement in a no-pay status until the Department member notifies their unit of assignment that they choose to use elective or compensatory time; and
 - i. an order to report to a new unit of assignment.
- D. The assigned investigative team seeking relief of duties or powers will submit a draft recommendation for review and approval by the Deputy Chief Administrator and the Chief of Investigative Operations prior to submission for review and approval by the Chief Administrator.³ Reviewers will note approval or rejection in COPA's electronic case management system.
1. The Deputy Chief Administrator and the Chief of Investigative Operations will approve or reject a draft recommendation within two business days of receipt.
 2. The Chief Administrator will approve or reject a draft recommendation approved by the Deputy Chief Administrator and the Chief of Investigative Operations within two business days of receipt.
 3. Recommendations to the Superintendent of Police approved by the Chief Administrator will be transmitted to the Department via the Director of Investigations (or designee) responsible for logging the submission and tracking response(s) to the recommendation.⁴ The Director of Investigations (or designee) will transmit the recommendation to the Superintendent of Police within one business day of approval from the Chief Administrator. A copy of the recommendation will be stored in COPA's electronic case management system, as well as any return correspondence from the Department.

³ If the Chief Administrator is unavailable (i.e., due to vacation, medical emergency, or other unforeseen circumstances), review and approval authority may be delegated.

⁴ Letters transmitted recommending restrictions on duties or powers are often accompanied by copies of materials from the investigative file that support the recommendation.

II. RESTORATION OF DUTIES OR POWERS – SWORN DEPARTMENT MEMBERS

- A. If, through further investigation of an incident in which a COPA recommendation for restriction of duties or powers has previously been submitted to the Superintendent of Police, the considerations initially relied upon by COPA to support the recommendation are determined to be mitigated or no longer applicable due to new evidence (thus making the criteria in I(A)(1) or I(A)(2) inapplicable), or upon the conclusion of an investigation, the Chief Administrator may recommend that any restrictions be lifted.
- B. The assigned investigative team recommending restoration of duties or powers will notify their assigned Deputy Chief Administrator and the Chief of Investigative Operations. The assigned investigative team will submit a draft recommendation for approval by the Deputy Chief Administrator and the Chief of Investigative Operations prior to submission for review and approval by the Chief Administrator. Reviewers will note approval or rejection in COPA's electronic case management system.
 1. Recommendations to the Superintendent of Police approved by the Chief Administrator will be transmitted to the Department via the Director of Investigations (or designee) responsible for logging the submission and tracking response(s) to the recommendation. A copy of the recommendation will be stored in COPA's electronic case management system, as well as any return correspondence from the Department.

III. RELIEF OR RESTORATION OF DUTIES OR POWERS – NON-SWORN DEPARTMENT MEMBERS

- A. Procedures for recommending restriction or restoration of duties or powers, as detailed in I & II above are applicable to non-sworn members of the Department. However, recommendations are limited to duties and responsibilities that do not involve the power of arrest or any other police power other bestowed only to sworn members of the Department.

IV. NON-DISCIPLINARY RECOMMENDATIONS

- A. In addition to, or in lieu of, recommending the restriction of duties or powers, the Chief Administrator also may recommend Non-Disciplinary Intervention.
 1. Recommendations for Non-Disciplinary Intervention are issued by COPA to provide support, develop or refine job skills, and improve Department member well-being. Department member receptivity to a non-disciplinary recommendation increases the likelihood of positive outcomes. Therefore, COPA will highlight the non-disciplinary objective of the recommendation upon issuance.

V. QUALITY ASSURANCE⁵

- A. Monthly, the Chief of Investigative Operations (or designee) will submit to the Chief Administrator (or designee) a list of Department members whose duties or powers have been restricted or recommended for restriction pursuant to a COPA recommendation. This list will include the following for each case in which restriction has been requested:

⁵ See COPA Policy (Disciplinary and Remedial Recommendations) and COPA Policy (Quality Assurance) for additional information about measures COPA undertakes to ensure quality, equity, and consistency in making recommendations.

1. whether evidence or information acquired in the last month support reconsideration of or continued restriction of duties or powers;
 2. if the request for restriction is pending, whether the request is still warranted or no longer applicable;
 3. if the request for restriction is pending, the date COPA received the initial complaint, the date COPA opened the investigation, and the date the restriction request was made;
 4. a list of mitigating and aggravating factors associated with request for restriction.
- B. At least 10 days in advance of submitting the list detailed in V(A), the assigned Deputy Chief Administrator will be responsible for submitting to the Chief of Investigative Operations (or designee) all appropriate information in which to complete this list prior to submission to the Chief Administrator (or designee).
- C. Quarterly, the Chief of Investigative Operations (or designee) will submit a list of non-disciplinary recommendations made in COPA investigations for confirmation of outcomes to the Bureau of Internal Affairs. The Chief of Investigative Operations (or designee) will share information returned by the Bureau of Internal Affairs with the assigned investigative team for memorialization in the investigative file.
- D. At least 10 days in advance of submitting the list detailed in V(C), the assigned Deputy Chief Administrator will be responsible for submitting to the Chief of Investigative Operations (or designee) information regarding any new non-disciplinary recommendations made during the quarter.
- E. COPA will, to the extent available, collect and retain the following data in a searchable and sortable format: the race, ethnicity/national origin, religion, age, disability, gender, and sexual orientation of the complainant, victim, and involved Department members; the mitigating and aggravating factors considered; and the recommendations regarding Department member duties and powers made by the Investigations Section.⁶

EXCEPTIONS

N/A

RELATED INFORMATION

<u>Title</u>	<u>Type</u>
Training and Disciplinary Records	COPA Policy
Investigative File Maintenance	COPA Policy
Disciplinary and Remedial Recommendations	COPA Policy

⁶ COPA will analyze this data in alignment with expectations detailed in Section IV of COPA Policy (Disciplinary and Remedial Recommendations) to achieve equity and consistency in COPA recommendations regarding Department member duties and powers.

Quality Assurance	COPA Policy
Major Incident Responses	COPA Policy
Supervisory Responsibilities – Major Case Notifications and Scene Response	COPA Guidance
Restriction on Duties or Police Powers Letter	COPA Template
Restoration of Duties or Police Powers Letter	COPA Template

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