



A Less Than Ideal Police Discipline Process



(Chicago Police Department)

June 29, 2022  by [Secure 1776](#)

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In Chicago, COPA investigates allegations of excessive force and several related serious allegation types involving Chicago Police Department (CPD) members. Most other allegations of serious misconduct are investigated by CPD's Bureau of Internal Affairs (BIA). Following a complaint investigation, whenever COPA or BIA investigators sustain a violation of CPD rules and

regulations, a penalty recommendation is made. The accused member can either accept or appeal the recommended penalty. In cases with either a recommendation of termination or a suspension of more than 30 days, the Chicago Police Board serves as the civilian oversight hearing panel. The Police Board may also hear some accused-member appeals for suspension recommendations less than 30 days when those matters are not advanced through the grievance arbitration process.

In all cases, the need for consistency and fairness is essential. However, the [OIG reported](#) that in Chicago: *“the agencies charged with investigating CPD members and recommending discipline, as well as reviewing those recommendations, do not operate with sufficient guidance and controls to ensure procedural fairness and consistency”* ([OIG Press Release, 16 June 2022](#)).

Both CPD and COPA policies mandate that mitigating and aggravating factors are to be considered by investigators before penalty recommendations for misconduct are made. Such consideration is a key element in ensuring procedural fairness in the disciplinary process.

However, the actual practices of COPA, BIA, and the Chicago Police Board were found to be lacking in

this key responsibility. In its full report, the OIG concluded: *“existing BIA, COPA, and Police Board policies do not provide clear and actionable guidance to agency personnel sufficient to ensure procedural consistency and fairness in the determination of discipline across misconduct investigations”* (OIG report, page 5). On this point, it also bears noting that in January 2022, during the confirmation hearing of Andrea Kersten to serve as the permanent head of COPA, Chicago Alderman Anthony Napolitano highlighted his concerns that [COPA has shown a pattern of overreach](#) in its investigative processes and penalty recommendations.

A Case Example Consistent with the OIG’s Report

One need to look no further than the [November 2021 COPA recommendation](#) to suspend slain Chicago Police Officer Ella French to find an example of a police discipline process that is less than ideal. The recommendation was publicly released three months after [Officer French was murdered](#) in the line of duty on 7 August 2021. The call to discipline Officer French stemmed from a larger police misconduct investigation relating to a 21 February 2019 incident. At that time Ella French was still a probationary officer, just a few weeks past her formal field training.

The 2019 incident involved serious allegations stemming from a widely-criticized search warrant entry by other officers to the residence of Ms. Anjanette Young. Those officers were acting on information from an informant that a firearm was being unlawfully possessed by a convicted felon at that address. Ms. Young was not that felon, and her residence was the wrong address. COPA's investigation actually cleared Officer French of all the allegations directly related to Ms. Young. In fact, following the release of COPA's suspension recommendation for Officer French, [Ms. Young issued a statement praising Officer French.](#)

PA sustained two lesser infractions from an encounter with another individual stopped briefly in the alley behind Ms. Young's residence. The first infraction involved the failure to complete a field report documenting the encounter. The second asserted that Officer French failed to activate her body worn camera (BWC). **Secure 1776** completed a detailed analysis of COPA's investigative summary report. Their investigative findings against Officer French were flawed, and their penalty recommendation failed to consider key mitigating factors. We encourage our readers to reread that full analysis, "[Defiling the Memory of Slain Police Officer Ella French.](#)"

In our analysis, we describe how Officer French was not the officer directly responsible to complete the missing field report. The responsible officer was identified by COPA, and admitted that he was the officer that should have ensured the report's completion. As such, that allegation should never have been sustained against Officer French – even if she had not been since murdered. Secondly, relative to the body camera, the investigation disclosed that Officer French did not immediately activate her camera. Her delayed start was mostly likely not true and deliberate misconduct. It was a minor equipment use error by an inexperienced officer. In 2019, such body camera infractions were routinely handled by CPD as training and counseling matters, as the department-wide BWC technology deployment was still relatively new.

Further, relative to the person in the alley, Officer French never directly interacted with him. Here again, the mitigating factors of her inexperience overall, and the lack of any evidence indicating her delayed start of the camera was deliberate, as well as her mere presence in proximity with the person in the alley were all ignored by COPA. The three-day suspension recommendation, also ignored that Officer French had a spotless disciplinary history, as well as the fact that the person encountered in the

alley made no allegation of misconduct by any of the officers, even after being contacted by COPA. Based upon the totality of the circumstances, no disciplinary action beyond a reprimand would have been the appropriate recommendation for any probationary officer with no disciplinary history – who was still alive at the time any approved penalty was to be implemented.

Five Pillars in Handling Complaints of Police Misconduct

Secure 1776 refers our followers to the February 2022 training insight posting from our founder entitled, "[Handling Complaints Against the Police](#)." In that posting, [Thomas Lemmer](#) draws upon his more than 25 years of experience as a CPD supervisory and command member. He observed:

"In handling complaints against police officers, those assigned to investigate must distinguish between error ([even tragedy](#)) and true misconduct, and seek to advance five key pillars: truth, fairness, respect, improvement, and proportionality. Each of these five elements is essential to advancing the legitimacy within the process that simultaneously meets the needs of the community, department, and the officers."

A process that lacks procedural fairness for the accused officers and fails to appropriately examine all mitigating and aggravating neither serves the needs of the officers nor the police department.



Rather than advancing the constitutional policing interests of the community, such a failed system actually weakens public safety. Summarizing from Lemmer's training insight:

- *Truth*: Gathering the facts in the circumstances surrounding allegations of police misconduct can be extremely challenging. But, such remains essential. The handling of complaints must work out from the truth.
- *Fairness*: To ensure fairness, complaint investigations must be fact-based, appropriately measure the actions of all involved parties, and adhere to an evaluation of the facts known to the involved officers at the time. They must also be considered in light of the law and the department's established policies and delivered training.

- *Respect*: The process must be one that is respectful. Experience has shown that a significant portion of citizen complaints stem from a perception that they were not treated with respect. Similarly, many police officers believe that departmental processes that address citizen complaints are often lacking in respect for their efforts and challenges they faced. A lack of respect weakens the trust needed among all those involved with the process.
- *Improvement*: The entire process must have an improvement focus relative to: (a) officer performance, both individually and across all officers; (b) complainant and community understanding relative to appropriate police procedures; and (c) organizationally through improved processes, policies, training, and staff support.
- *Proportionality*: When a complaint is sustained against an officer, the sanctions imposed on the officer must be proportional to the circumstances. These circumstances must include an examination of five key factors: the harm caused, intent of the officer, skills deficiency, incitement source, and supervisory culpability. Such examination is essential to ensuring that all disciplinary recommendations fully consider all relevant mitigating and aggravating factors.

Without question, deliberate misconduct should not go unaddressed. However, two additional points are equally true. First, mistakes and deliberate misconduct should never be conflated. Second, individual officers should not carry the full burden for mistakes that are the direct result of poor policies, inadequate training, and failed supervision.

The City of Chicago would be well served with an embrace of the five key pillars of complaint investigations by COPA, BIA and the Chicago Police Board. Doing so would go a long way to addressing the shortcomings in the city's current police disciplinary process identified in the OIG report released yesterday.

This article originally appeared on [Secure1776](#). We encourage you to follow this excellent resource.

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