



May 1, 2023

Mr. Max A. Caproni
Executive Director, Chicago Police Board
30 North LaSalle Street, Suite 1220
Chicago, Illinois 60602

Via Email

RE: Request for Review, Log #1090089: Officer Patrick Bunyon #16768

Dear Mr. Caproni,

Pursuant to the Municipal Code of Chicago Section 2-78-130 and Police Board Rules of Procedure Section VI, please consider this letter a Request for Review of a non-concurrence between the Civilian Office of Police Accountability (COPA) and the Superintendent of the Chicago Police Department (CPD) in Log # 1090089.¹

As set forth in COPA's Final Summary Report dated November 30, 2022 (FSR), there is a compelling legal and evidentiary basis to support COPA's disciplinary recommendation against Officer Patrick Bunyon ("Officer Bunyon").

I. BACKGROUND

A. Relevant Factual Background²

On July 4, 2018, Officers Bunyon and Pilolli were fired upon as they advanced through a gangway on foot toward a group of people. The individuals then dispersed and fled on foot. Officers Bunyon and Pilolli gave chase. Officer Bunyon stopped and fired five times in rapid succession in the direction of two of the fleeing individuals, one of whom was [REDACTED]

In the early morning hours of July 4, 2018, Officer Bunyon provided a walk-through statement to Street Operations Deputy Chief Nagode ("DC Nagode"), and Detective Murphy ("Det. Murphy").³ Det. Murphy summarized Officer Bunyon's walk-through statement, reporting in relevant part that [REDACTED] was running while armed with a firearm prior to Officer Bunyon's firearm discharge. Shortly thereafter, DC Nagode

¹ As required by the Police Board Rules of Procedure, enclosed are copies of COPA's FSR, CPD's non-concurrence letter, and the certificate of meeting. **COPA notes that the Statute of Limitations for the filing of charges against Officer Bunyon before the Police Board expires on July 4, 2023.¹ As such, COPA respectfully requests an expedient resolution of this Request for Review.**

² A more detailed factual summary can be found in the FSR.

³ Att. 124 at p. 50; *see also* Figure 1, TIMELINE.

provided a summary of Officer Bunyon’s walk-through statement to COPA investigative staff.⁴ A summary of DC Nagode’s statement likewise only contained information that ██████ was running with a gun before Officer Bunyon fired at him.⁵

In his 2019 statement to COPA, Officer Bunyon reported that he fired at ██████ in response to ██████ turning and pointing a firearm in his direction. Specifically, Officer Bunyon stated that he observed ██████ with a firearm in his hand after he emerged from behind a car parked on the east side of Massasoit.⁶ *See* Figures 1 and 3. Officer Bunyon specified that he did not see ██████ with a firearm prior to ██████ emerging from behind the vehicle.⁷ Officer Bunyon stated that he fired at ██████ after ██████ emerged from behind the parked car and had turned towards him, bladed his body right at approximately a 4 o’clock position, and pointed a firearm in his direction. *See* Figures 1 and 3.

Third-party videos of the incident show ██████ in headlong flight.⁸ They depict ██████ turning towards the officers *after* Officer Bunyon discharged his firearm.⁹ Audio from body-worn cameras (“BWCs”) of Officer Bunyon¹⁰ and Officer Pilolli,¹¹ when played side-by-side with third-party videos,¹² corroborate COPA’s conclusion that ██████ turned *after* Officer Bunyon’s firearm discharge.¹³

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⁴ Att. 4 at p. 1.

⁵ Att. 4 at p. 1.

⁶ Att. 127, p. 56, lines 18-24; p. 57, lines 1-24, p. 58, lines 1-20.

⁷ Att. 127, p. 56, lines 21-24; p. 57, lines 1-24; p. 58, lines 2-5.

⁸ Atts. 33-34.

⁹ *See* Figures 3 & 4 in Superintendent’s non-concurrence with COPA’s proposed finding and penalties, p. 8-9 (Mar. 1, 2023). Superintendent relies on these figures to support his argument that ██████ turned and pointed a firearm. However, these figures show ██████ actions *after* Officer Bunyon had fired his weapon.

¹⁰ Att. 55.

¹¹ Att. 79.

¹² Atts. 33-34.

¹³ Although not presently an attachment, COPA is willing and able to provide side-by-side footage for the one member’s review.

Figure 1. Timeline setting forth date, time, and contents of statements regarding the purported justification for Officer Bunyon's firearm discharge.

TIMELINE

DATE	TIME	TYPE OF STATEMENT	CONTENTS OF STATEMENT
July 4, 2018	4:50 am	Det. Murphy's Summary of Officer Bunyon's walk-through statement to DC Nagode and Det. Murphy. ¹⁴	After being fired upon in the gangway, Officer Bunyon "observed several male blacks running southbound including offender [REDACTED] who was armed with a weapon." ¹⁵ Officer Bunyon "related that he was running southbound on the sidewalk pursuing the subject, now known as [REDACTED] who was armed with a firearm. Officer Bunyon #16768 fearing for the sanctity of his life and the life of his partner, Officer J. Pilolli #16870 discharged his duty weapon." ¹⁶
	5:41 am	COPA's Summary of DC Nagode's walk-through statement to COPA. ¹⁷	After being fired upon in the gangway, Officers Pilolli and Bunyon pursued a "male black with a gun running southbound. Officer Bunyon yelled at Officer Pilolli to get out of the way. Officer Bunyon then fired in the direction of the black male with a gun. The Officers apprehended a black male, now known to be LaMonte [REDACTED]. A revolver was recovered from the area near [REDACTED]." ¹⁸
	Unknown (after walk-through with Officer Bunyon)	Det. Murphy's General Progress Report ("GPR").	Det. Murphy referenced the third-party video from 942 S. Massasoit and indicated: "Δ [REDACTED] points weapon @ Officers while running. – 942 Mass. 1:40:29 02:28." ¹⁹ During his interview with COPA, Det. Murphy explained that 1:40:29 referred to the timestamp on the third-party video from 942 Massasoit. ²⁰ See Figure 2.
July 5, 2018	9:42 am	[REDACTED] Arrest Report.	Prosecutor approved Unlawful Use or Possession of a Weapon by a Felon ("UUWF") charges. ²¹ The arrest report indicated that officers "gave chase of a male subject observed holding a handgun and running south on Massasoit. After a brief foot chase [REDACTED] was placed in custody and a fully loaded chrome revolver loaded to capacity was recovered." ²²
January 15, 2019	11:07 am	Officer Bunyon's Statement to COPA. ²³	Officer Bunyon reported that he observed [REDACTED] with a firearm in his right hand after he emerged from behind a car parked on the east side of Massasoit. ²⁴ Officer Bunyon did not see [REDACTED] with a firearm prior to [REDACTED] emerging from behind the vehicle. ²⁵ Officer Bunyon stated that he fired at [REDACTED] after [REDACTED] turned towards him, bladed his body right at

¹⁴ Att. 124 at p. 50. Reflecting Det. Murphy's summary of Officer Bunyon's statement.

¹⁵ Att. 124 at p. 50. Reflecting Det. Murphy's summary of Officer Bunyon's statement.

¹⁶ Att. 124 at p. 50. Reflecting Det. Murphy's summary of Officer Bunyon's statement.

¹⁷ Att. 4 at p. 1.

¹⁸ Att. 4 at p. 1.

¹⁹ Att. 124 at p. 189; Att. 137 at p. 20, lines 6-21. Investigation conclusively showed that this person was not [REDACTED]. See also Figure 2.

²⁰ Att. 137, p. 16, lines 4-24; p. 17, lines 1-12.

²¹ Att. 6, p. 1.

²² Att. 6, p. 2.

²³ See generally Att. 127.

²⁴ Att. 127, p. 56, lines 18-24; p. 57, lines 1-24, p. 58, lines 1-20; see also Figures 1 and 3.

²⁵ Att. 127, p. 56, lines 21-24; p. 57, lines 1-24; p. 58, lines 2-5.

			approximately a 4 o'clock position, and pointed a firearm in Officer Bunyon's direction.
January 16, 2019	9:55 am	Case Supplementary Report. ²⁶	Det. Murphy reported that "[i]t has been established through witness identification and video media images that on Wednesday 04 July 2018, at approximately 0200 hours, while at the location of 956 N. Massasoit, Tyshawn TERRY produced a handgun and fired a handgun down the gangway at [officers]. Additionally, Lamontae [REDACTED] while fleeing from arresting officers pointed a handgun in the direction of officers Bunyon and Pilolli." ²⁷
October 7, 2019	12:10 pm	Det. Murphy's statement to COPA	Det. Murphy stated that during the walk-through with Officer Bunyon on July 4, 2018, Officer Bunyon told him that [REDACTED] pointed a gun at him. ²⁸ Det. Murphy explained that he did not record this information in his GPR because his notes were merely a summary of Officer Bunyon's statement. ²⁹

Figure 2. Screenshot depicting three individuals running from Officer Bunyon and Pilolli at timestamp 1:40:29 from third party video taken from 942 S. Massasoit. [REDACTED] and one unknown man are indicated by white arrows ([REDACTED] indicated by white arrow on the right pointing north). The third man, indicated by a red rectangle, appears to point his right arm behind him and in the direction of the officers.



B. Disputed Findings and Recommendations

The Superintendent disagrees with the Sustained finding against Officer Bunyon for violation of the CPD's use of force policies.

C. Applicable CPD Policy

1. Use of Deadly Force.

CPD policy dictates that "[t]he use of deadly force is a last resort that is permissible only when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person."³⁰ Thus, a CPD member may use deadly force in only two situations. First, deadly force

²⁶ Att. 124 at p. 26 – 55.

²⁷ Att. 124 at p. 54.

²⁸ Att. 137 at p. 32.

²⁹ Att. 137 at p. 32.

³⁰ G03-02(III)(C)(3) (eff. Oct. 16, 2017).

may be used to prevent death or great bodily harm from an imminent threat posed to the sworn member or another person. Second, deadly force may be used to prevent an arrest from being defeated by resistance or escape, where the person to be arrested poses an imminent threat of death or great bodily harm to a sworn member or another person unless arrested without delay.³¹ “A threat is imminent when it is objectively reasonable to believe that:

- a. the subject’s actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken; and
- b. the subject has the means or instruments to cause death or great bodily harm; and
- c. the subject has the opportunity and ability to cause death or great bodily harm.”³²

CPD policy prohibits the use of deadly force “on a fleeing person unless the subject poses an imminent threat.”³³ During all use of force incidents, CPD members will strive to use de-escalation techniques to prevent or reduce the need for force, based on the totality of the circumstances.³⁴

II. ARGUMENT

A. The Superintendent’s argument relies on faulty analysis of the evidence and fails to meet the affirmative burden to overcome COPA’s recommendation that Allegation #1 be Sustained.

First and foremost, there is no confusion by COPA regarding the two third-party videos³⁵ that captured the incident.³⁶ Rather, it is the Superintendent’s misunderstanding of these videos that has created confusion. Specifically, on page 8 and 9 of his non-concurrence letter, the Superintendent contends that two screenshots from third party videos prove that █████ turned *before* Officer Bunyon fired his weapon.³⁷ Both screenshots, however, depict █████ *after* Officer Bunyon began shooting. *See* Figure 3. Moreover, audio from Officer Bunyon’s³⁸ and Officer Pilolli’s³⁹ BWCs, when played side-by-side with third-party videos,⁴⁰ corroborate COPA’s conclusion that █████ turned *after* Officer Bunyon’s firearm discharge. What is more, there is **no objective evidence** in the record depicting █████ turning *before* Officer Bunyon fired his weapon. Rather, the third-party videos show █████ in headlong flight.

³¹ *Id.*

³² *Id.* at (III)(C)(2).

³³ *Id.* at (III)(C)(4).

³⁴ G03-02-01.II.B

³⁵ Atts. 33-34.

³⁶ *See* Superintendent’s non-concurrence with COPA’s proposed finding and penalties, p. 6 (Mar. 1, 2023).

³⁷ *See id.*, at pp. 8-9.

³⁸ Att. 55.

³⁹ Att. 79.

⁴⁰ Atts. 33-34.

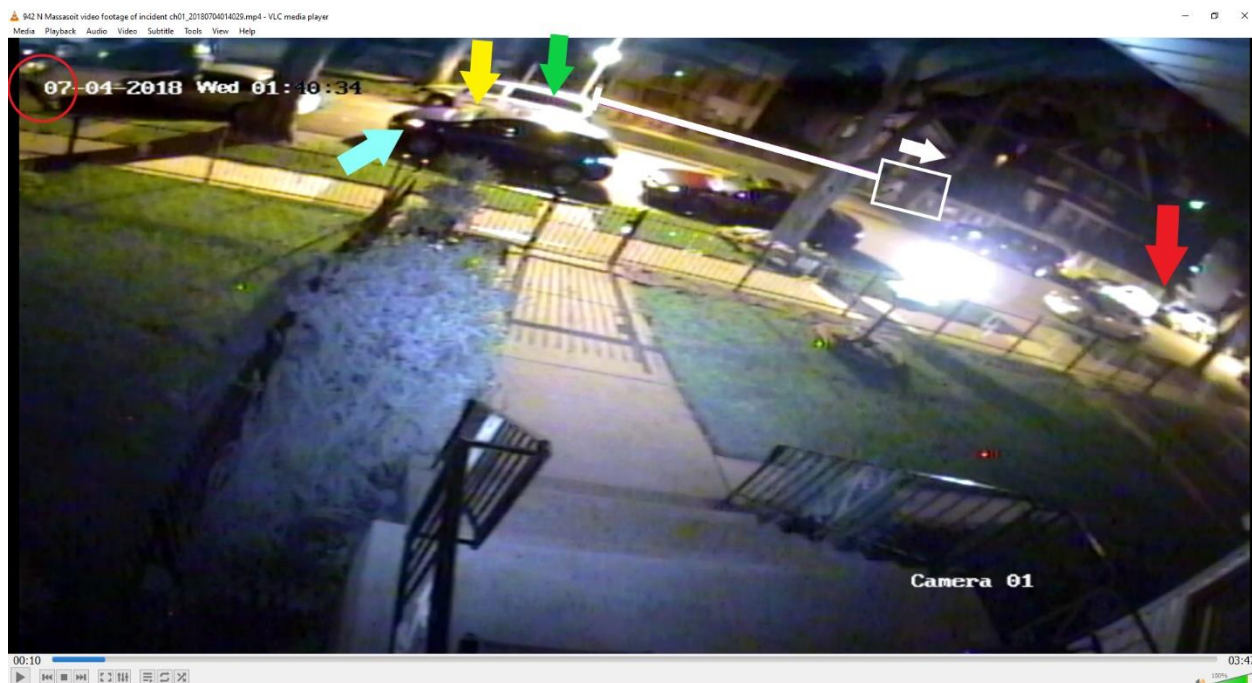


Figure 3.⁴¹ Screenshot depicting the moment Officer Bunyon's⁴² bullets hit a parked car's front windshield (yellow arrow).⁴³ Officer Bunyon is off-screen on the sidewalk in the top left-hand corner. A bystander falls to the ground (red circle).⁴⁴ The front driver's side headlight begins to flash (blue arrow). The white rectangle depicts [REDACTED] and the unknown man, and the white arrow depicts their direction of flight. The red arrow depicts the approximate location of [REDACTED] where, according to the Superintendent, he looked back and pointed the weapon towards Officer Bunyon.⁴⁵ The white line parallel to the sidewalk connecting the white car (green arrow) and the white rectangle, depicts the stretch along which, according to Officer Bunyon, [REDACTED] turned and pointed the firearm.⁴⁶

As Figure 3 demonstrates, and audio evidence corroborates,⁴⁷ at the time Officer Bunyon began shooting, [REDACTED] and the other man had not yet reached the location where the Superintendent contends [REDACTED] turned and pointed a weapon at the officers (indicated by red arrow).⁴⁸ Tellingly, the Superintendent does not argue that [REDACTED] turned and pointed his weapon at any point prior to reaching this location.⁴⁹ Indeed, there is no evidence to support such an argument.

⁴¹ Figure 3 is a screenshot taken from Attachment #34, at minute 00:10. *Also see* FSR at p. 8, Figures 8 and 9. In addition, COPA notes that audio from Officer Bunyon's and Officer Pilolli's BWCs, when played side-by-side with third party videos (Atts. 33-34), corroborate the timing of Officer Bunyon's firearm discharge as depicted in Figure 3. COPA strongly recommends that the one member review the videos capturing the incident.

⁴² Officer Bunyon is not visible at this point and is located off-screen on the sidewalk in the top left-hand corner (see orange arrow). Officer Bunyon's BWC corroborates his location at the time of his firearm discharge.

⁴³ Audio from Officer Bunyon's and Officer Pilolli's BWCs, when played side-by-side with third-party videos (Atts. 33-34), corroborate that the windshield of the parked car shattered contemporaneously with Officer Bunyon's firearm discharge. Also, two fired bullets were recovered from this parked car. Att. #124, pp. 46, 61, 74, and 216 - 17.

⁴⁴ Bystander was also visible on Officer Bunyon's BWCs immediately prior to Officer Bunyon firing his weapon. *See* Att. 55 at T07:40:33Z.

⁴⁵ *See* Superintendent's non-concurrence with COPA's proposed finding and penalties, p. 8-9, Figures 3 and 4.

⁴⁶ Att. 127, p. 56, lines 21-24; p. 57, lines 1-24; p. 58, lines 2-5.

⁴⁷ Audio from Officer Bunyon's and Officer Pilolli's BWCs, when played side-by-side with third party videos, corroborates the timing of Officer Bunyon's firearm discharge.

⁴⁸ *See* Superintendent's non-concurrence with COPA's proposed finding and penalties, p. 9.

⁴⁹ *See generally* Superintendent's non-concurrence with COPA's proposed finding and penalties.

In fact, the Superintendent appears to completely disregard Officer Bunyon's own claim that █████ turned and pointed the weapon earlier during the foot chase. Specifically, during his statement to COPA, Officer Bunyon indicated that █████ turned and pointed the firearm after emerging from behind the car parked on the east side of Massasoit (indicated by green arrow in Figure 3), and while he ran through a stretch where no other cars were parked (indicated by white line parallel to the sidewalk on the east side of Massasoit in Figure 3).⁵⁰ As previously noted, however, the evidence does not show █████ turning or pointing while running along this stretch of Massasoit before Officer Bunyon discharged his firearm. Rather, he is in headlong flight. As such, the preponderance of the evidence demonstrates that █████ did not pose an imminent threat justifying Officer Bunyon's firearm discharge.

For the above reasons, Officer Bunyon's decision to target █████ under these circumstances was objectively unreasonable, unnecessary, and disproportionate.⁵¹ Allegation #1 was properly sustained.

B. The Superintendent's claim that Officer Bunyon immediately reported that █████ pointed a firearm at him is undermined by the evidence.

Additional facts undermine the Superintendent's claim that Officer Bunyon reported that █████ had pointed a firearm in his direction on the night of incident. First, although DC Nagode and Det. Murphy were present for Officer Bunyon's walk-through statement in the early morning hours of July 4, 2018, neither reported, whether verbally to COPA investigators or in a written summary authored that day, that Officer Bunyon told them he fired his weapon in response to █████ pointing his firearm. Neither of these two independent accounts captured Officer Bunyon's statement that █████ pointed a firearm at him.⁵² The omission of this fact in two separate accounts of the same statement is significant and supports the conclusion that Officer Bunyon did not report that █████ pointed a firearm at him during the walk-through.

Second, the Superintendent's reliance on Det. Murphy's later statement to COPA is misplaced. During his COPA statement, Det. Murphy claimed that Officer Bunyon did tell him on the night of the incident that █████ had pointed a firearm in his direction. Det. Murphy explained that he had not memorialized this portion of Officer Bunyon's statement in his report because his report was merely a summary of Officer Bunyon's statement. Det. Murphy's explanation challenges common sense, is not supported by the evidence, and lacks credibility. COPA finds it very difficult to believe that Det. Murphy, a 20-year veteran detective, would have failed to record this portion of Officer Bunyon's statement while investigating possible criminal charges against █████.⁵³

Thus, no objective evidence exists to support Det. Murphy's claim that Officer Bunyon told him during the walk-through on the night of the incident that █████ pointed a firearm in his direction. For all these reasons, Officer Bunyon's claim that █████ threatened him with the gun is not supported by the evidence.

⁵⁰ Att. 127, p. 56, lines 21-24; p. 57, lines 1-24; p. 58, lines 2-5. (Officer Bunyon indicated that there was an open stretch where no vehicles were parked and that he saw █████ turn and point a firearm while running along that open stretch). Note: Open stretch indicated with horizontal white line in Figure 3.

⁵¹ What is more, not only did Officer Bunyon fire at a fleeing person who posed no imminent threat, he also imperiled the unknown man running near █████ endangered an innocent bystander near him, and fired shots through a parked car and into a house. As depicted in Figure 3, an unknown bystander in close proximity to Officer Bunyon appeared to fall to the ground as Officer Bunyon began firing his weapon.

⁵² Att. 4 at p. 1; Att. 124 at p. 50.

⁵³ Att. 137, p. 32-33; p. 50.

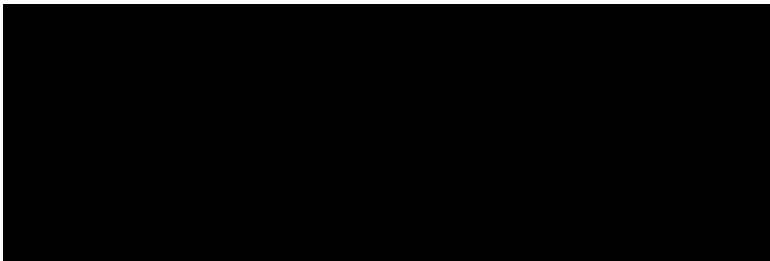
C. Questions of Fact or Law Should be Decided after a Full Hearing of the Police Board.

COPA disagrees with many of the Superintendent's arguments regarding the facts of this case and the applicable policy. Given the nature, complexity, and extent of those disagreements, COPA respectfully submits that the many issues raised would be more appropriately addressed through a full hearing of the Police Board. COPA also welcomes an opportunity to present additional argument upon request of the single member of the Police Board.

III. CONCLUSION

For these reasons, COPA maintains that the Superintendent has failed to meet the affirmative burden of overcoming COPA's recommendation. Accordingly, COPA respectfully requests that the Chicago Police Board reject the Superintendent's non-concurrence in this matter and accept COPA's recommended penalty of separation for Officer Bunyon.

Respectfully,



Andrea Kersten
Chief Administrator
Civilian Office of Police Accountability