



November 5, 2021

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

Via Email and U.S. Mail

RE: Request for Review, Log #2019-0000294

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 (Department) in Log # 2019-0000294.¹

As set forth in detail in COPA's Summary Report of Investigation dated June 2, 2021 (SRI), there is a compelling legal and evidentiary basis to support COPA's disciplinary recommendation of separation based on findings that Officer Michael Mancha committed misconduct when he, among other things, engaged in a dangerous motor vehicle pursuit that violated Department policy in several respects.

The Superintendent bears the affirmative burden of proof in overcoming COPA's disciplinary recommendation. COPA respectfully requests that the Board reject the Superintendent's non-concurrence in this matter for the reasons set forth below.

I. BACKGROUND

A. Relevant Factual Background²

On March 3, 2019, Officer Mancha and his partner were on routine patrol in their unmarked police vehicle when they observed the driver of a black Chrysler turn without using a signal. Officer Mancha attempted to pull the driver over but the driver only briefly complied before pulling away at a high rate of speed. Officer Mancha followed, driving at speeds up to 60 miles per hour and only intermittently used his vehicle's lights and sirens. During the pursuit, he drove through stop signals and into oncoming traffic. Neither officer informed OEMC of their pursuit or sought supervisor review of their conduct. After continuing to pursue the black Chrysler, the officers observed that car collide with another uninvolved vehicle. [REDACTED], a two-year old, was thrown from the black Chrysler and passed away shortly after the incident. Others involved in the crash sustained minor injuries.

¹ As required by the Police Board Rules of Procedure, enclosed are copies of COPA's final summary report, the Department's non-concurrence letter, and the certificate of meeting.

² A more detailed factual summary can be found in COPA's SRI.

B. Disputed Findings and Recommendations

As the Superintendent states in the enclosed letter, he does not concur with COPA's recommendation that Officer Mancha be separated for his misconduct. The Superintendent states that a 180-day suspension would be more appropriate for Officer Mancha's misconduct.³

C. Applicable Policy

The Department has established policies for motor vehicle pursuits that are designed to "ensure the safety of the public as well as Department members at all times."⁴ The initiation and continuation of a motor vehicle pursuit is justified only when the need to immediately apprehend the fleeing driver outweighs the level of inherent danger created by a motor vehicle pursuit.⁵ Police vehicles operating as "emergency vehicles" are exempted from speed, directional, and traffic signal requirements.⁶ Those exemptions only apply, however, when the vehicle is identifiable as an "emergency vehicle," meaning the vehicles lights and sirens are in operation.⁷ Even if operating an emergency vehicle, officers must drive with due regard for the safety of all persons.

In addition, Department policy specifically prohibits motor vehicle pursuits when an officer is operating an unmarked police vehicle and the fleeing driver has, at worst, committed a traffic offense.⁸ Department policy requires officers to terminate a pursuit where the fleeing driver disobeys traffic signals or stop signs and the most serious offense that person has committed either a theft or a hazardous traffic violation.⁹

II. ANALYSIS

A. The Superintendent has not met his burden to reduce COPA's disciplinary recommendation.

COPA maintains that the Superintendent has failed to satisfy his burden in seeking to reduce COPA's disciplinary recommendation.¹⁰ The Superintendent does not dispute that Officer Mancha violated Department policy governing motor vehicle pursuits in multiple ways, including engaging in a pursuit that was objectively unreasonable and failing to drive with due regard for people's safety. The Superintendent instead compares this case to two other cases, namely cases involving Officer Jamie Jawor and Officer Lukasz Gorski.

First, the Superintendent contends Officer Mancha's misconduct is not as bad as that of Officer Jawor, arguing (i) Officer Mancha did not reach the speeds Officer Jawor reached and (ii) unlike Officer Jawor, Officer Mancha used his vehicle's emergency equipment. The Superintendent ignores that Officer Mancha repeatedly reported, incorrectly, that he was driving only up to 40 miles per hour when he in fact reached speeds near 60mph, twice the legal limit. Officer Mancha also failed to use his emergency equipment for nearly all of the pursuit that lasted approximately 1.5 miles around 8:30 p.m. at night. Moreover, Officer

³ The Superintendent also did not concur with COPA's findings and recommended discipline regarding Officer Williams. Following the meet and confer process, COPA and the Department reached an agreement with respect to findings and discipline regarding Officer Williams. The Superintendent's non-concurrence on those points is therefore not addressed here.

⁴ G03-03(II).

⁵ G03-03-01(II)(A).

⁶ G03-03(III)(A).

⁷ G03-03 Glossary Terms.

⁸ G03-03-01(III)(C).

⁹ G03-03-01(III)(C)(2).

¹⁰ See Municipal Code of Chicago Section 2-78-130(a)(iii).

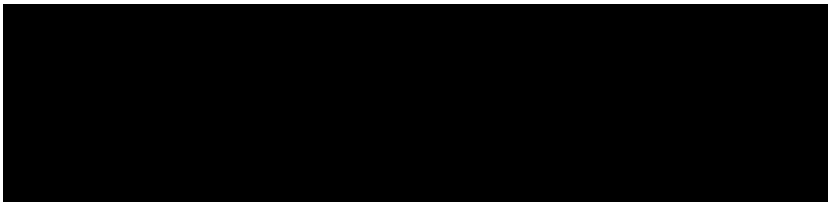
Mancha, like Officer Jawor, disingenuously contended he was not engaged in a motor vehicle pursuit because he did not activate his lights and sirens. Like Officer Jawor, he implausibly contended that he was merely following the vehicle to assist with a foot pursuit that might develop.

Second, the Superintendent compares Officer Mancha's conduct to that of Officer Gorski who initiated a pursuit in violation of Department policy and failed to use his lights and sirens. Officer Mancha's conduct was also appreciably more dangerous than that of Officer Gorski. In that case, Officer Gorski self-terminated his pursuit after the vehicle he was pursuing accelerated to 100mph.¹¹ Officer Gorski also used his vehicle's emergency equipment for the duration of the pursuit.

III. CONCLUSION

For these reasons, COPA maintains that the Superintendent has failed to meet his affirmative burden of showing COPA's disciplinary recommendation for Officer Mancha is unreasonable. Accordingly, COPA respectfully requests that the Chicago Police Board reject the Superintendent's non-concurrence in this matter and accept COPA's recommendation to separate Officer Mancha.

Respectfully,



Andrea Kersten
Interim Chief Administrator
Civilian Office of Police Accountability

¹¹ Although COPA believes he should have terminated earlier in the incident.