



April 23, 2021

Max A. Caproni
Executive Director, Chicago Police Board
30 N. LaSalle St., Suite 1220
Chicago, Illinois 60602

Via Email and U.S. Mail

RE: Request for Review, Log #2020-0002228

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 the above captioned matter.

As set forth in detail in COPA's Summary Report of Investigation dated November 9, 2020 (SRI) there is a compelling legal and evidentiary basis to support COPA's finding that Lieutenant Salgado engaged in misconduct when he swung his baton at [REDACTED] and unidentified protestors, in violation of General Order G03-02.¹

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

I. BACKGROUND

A. Factual Background²

On May 31, 2020, at approximately 8:25 pm, amidst national protests and civil unrest, [REDACTED] climbed on the roof of a parked vehicle near Julia Porter Park at 2400 N Lincoln Ave., and began chanting. Various Department members, including Commander Chris Papaioannou and Lieutenant Agustin Salgado, observed [REDACTED] on top of the vehicle and told him to get down. [REDACTED] refused, causing Cmdr. Papaioannou and other Department members to move towards the vehicle. As they approached, [REDACTED] jumped off the vehicle and fled on foot, but Cmdr. Papaioannou quickly apprehended him.

As Cmdr. Papaioannou arrested [REDACTED], an unidentified male wearing a black hooded sweatshirt approached the Department members. Lt. Salgado raised his baton at the unidentified male and

¹ As required by the Police Board Rules of Procedure, enclosed are copies of COPA's final summary report, the Department's February 4, 2021, non-concurrence letter, and the certificate of meeting.

² A more detailed factual summary is set forth in COPA's SRI.

swung as he turned away and fled. Lt. Salgado then approached [REDACTED] and Cmdr. Papaioannou, raised his baton again, and swung at [REDACTED]. After seeing that [REDACTED] was under control, Lt. Salgado approached another civilian, [REDACTED], who held a water bottle over her head, and again raised his baton. However, as [REDACTED] was taken into custody, Lt. Salgado lowered his baton and walked away.

Ultimately, COPA sustained a several allegations against Cmdr. Papaioannou and Lt. Salgado, including use of force allegations against Lt. Salgado, and administrative violations against both Department members.

B. Legal Background

Under General Orders G03-02 and G03-02-01, Department members are permitted to use force that is objectively reasonable, necessary, and proportional to overcome resistance.³ A subject who flees a Department member or otherwise attempts to defeat control or arrest is an active resister.⁴

A Department member is permitted to respond to active resistance with a litany of techniques, such as holding techniques and direct mechanical strikes; however, use of an impact weapon such as a baton is not permitted.⁵ A subject who is using or threatening the use of force against another person which is likely to cause physical injury is an assailant.⁶

A Department member is permitted to respond to an assailant who does not pose an imminent threat of death or great bodily harm with any response options available for active resistance plus direct mechanical techniques, *e.g.*, punches and kicks, impact weapons, and impact munitions.⁷

C. Disputed Findings & Recommendations

As the Superintendent's letter states, he does not concur with COPA's sustained findings for Allegation numbers 1, 3, 4, and 8 against Lt. Salgado. Allegations 1, 3, and 4 relate to Lt. Salgado's use of force. Allegation 8 relates to an administrative violation. The Superintendent also does not concur with COPA's recommended discipline of Cmdr. Papaioannou for sustained findings of various administrative violations. After reviewing the totality of evidence, COPA recommended that Lt. Salgado be suspended for 90 days and Cmdr. Papaioannou be suspended for 7 days.

II. ANALYSIS

A. The Superintendent's Non-Concurrence Overstates the Threat Faced by Lieutenant Salgado to Justify His Use of Force

The Superintendent's letter states that [REDACTED] was noncompliant, and "tried to get away" from Cmdr. Papaioannou when Lieutenant Salgado tried to strike him with a baton.⁸ The Superintendent also indicates that [REDACTED] did not recall being struck by the baton. These statements simply ignore

³ G03-02.

⁴ G03-02-01 IV(B)(2).

⁵ G03-02-01 IV(B)(2)(c)(1-5).

⁶ G03-02-01 IV(C).

⁷ G03-02-01 IV(C)(1)(a)(1-3).

⁸ In other words, [REDACTED] was an active resister as defined by [REDACTED]artment policy.

the fact that Lt. Salgado *attempted* to strike [REDACTED] - an active resister, with a baton. [REDACTED] prior noncompliance notwithstanding, the use of impact weapons, such as batons, is expressly prohibited against active resisters under G03-02-01.

Similarly, the Superintendent argues that Lt. Salgado's attempted use of force against unidentified civilians should not be sustained, in part, because they were not struck. Unlike with [REDACTED], however, the Superintendent insists that the unidentified civilians were assailants. COPA stands by its determination, supported by video evidence, that the unidentified civilians were not assailants. As previously mentioned, Department policy characterizes an assailant as someone who is using or threatening the use of force against another person which is likely to cause physical injury. The Superintendent argues that the unidentified civilians were assailants because they were converging on officers and/or standing in a threatening manner. COPA does not find that such behavior defines an "assailant" under Department policy. The Superintendent's burden has not been overcome.

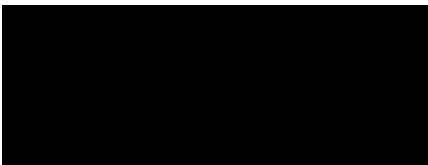
B. COPA's Recommended Discipline for Commander Papaioannou is Appropriate

As noted in COPA's SRI, Cmdr. Papaioannou failed to complete a required Tactical Response Report (TRR). He may have been confused about the necessity of completing a TRR given the internal discussion about using a non-standard procedure. While his misunderstanding was not an isolated occurrence, it may have exacerbated already widespread Department problems with responding to protests. Furthermore, Department members of a Commander's rank are expected to correctly understand policy. Consequently, COPA stands by its recommendation of a 7-day suspension.

III. CONCLUSION

For the reasons set forth above, the Superintendent has failed to meet his affirmative burden of showing COPA's contested findings and disciplinary recommendations in this case were erroneous. COPA correctly found that Lieutenant Salgado violated Department Use of Force policy and recommended appropriate discipline for Commander Papaioannou. COPA respectfully requests that the Chicago Police Board reject the Department's non-concurrence and accept COPA's findings and recommendations in this matter.

Respectfully,



Sydney Roberts
Chief Administrator
Civilian Office of Police Accountability