



May 24, 2022

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 #2021-0002341

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 # 2021-0002341.<sup>1</sup>

As set forth in detail in COPA's Summary Report of Investigation dated February 16, 2022 (SRI), there is a compelling legal and evidentiary basis to support COPA's disciplinary recommendation based on a finding that Officer Patrick Halloran, Star #8245, committed misconduct by striking an unidentified person with a baton without justification.

The Superintendent bears the affirmative burden of proof in overcoming COPA's 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. Relevant Factual Background<sup>2</sup>**

Officer Halloran was assigned to crowd control on June 16, 2021 and placed facing a group of citizens. Officer Halloran held his baton parallel to the ground, grasping each end with his hands. Unidentified citizens began throwing objects at officers, including Officer Halloran. Following an unidentified person's attempt to pull an officer across the police line, orders were issued to move the crowd back. Officers attempted to move the crowd back officers using their batons. Officer Halloran's baton forcefully struck the head of an unidentified person.

### **B. Disputed Findings and Recommendations**

As the Superintendent states in the enclosed letter, he does not concur with COPA's findings related to Officer Halloran's baton use.<sup>3</sup>

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<sup>1</sup> 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.

<sup>2</sup> A more detailed factual summary can be found in COPA's SRI.

<sup>3</sup> The Superintendent concurred with COPA's finding regarding Officer Halloran's failure to activate his body-worn camera but disagreed with COPA's recommended penalty.

## C. Applicable Department Policy

Recognizing that batons can cause serious injury or even death, Directive G03-02-07 provided in relevant part that:

- a “Department member’s use of a baton must be objectively reasonable, necessary, and proportional to the threat, actions, and level of resistance offered by the subject under the totality of the circumstances.”
- “Batons are authorized force options against passive and active resisters only as a control instrument placed mainly on the sensors of the skin covering bone or applied to joints and pressure sensitive areas of the body with non-impact pressure.”
- When using the baton as an impact weapon, “target the center mass of large muscle groups to establish control. . . .”
- “Members will not use batons to intentionally strike a subject in the head or neck except when deadly force is justified.”

## II. ANALYSIS

### A. The preponderance of the evidence shows that Officer Halloran struck the unidentified person with his baton without justification.

COPA stands by the summary of the evidence and analysis in its SRI. COPA’s conclusions are sufficiently supported by body-worn camera video. That video shows Officer Halloran forcefully shoving his baton at individuals in the crowd. The term “impact weapon” is not defined in Department policy. The ordinary definition of the word “impact” includes an “impinging or striking” or “the force of impression of one thing on another.”<sup>4</sup> The video shows Officer Halloran moving his arms back and forth with the baton in his hand in the direction of individuals in the crowd. Accordingly, COPA maintains that there is sufficient evidence to establish that Officer Halloran used his baton as an impact weapon.

In contrast, the Superintendent maintains that Officer Halloran was using his baton as “crowd control instrument.” That term is not used in Department policy and not further described in the Superintendent’s letter. COPA assumes the Superintendent means that Officer Halloran used his baton as a control instrument. Under Department policy, control instruments are applied with non-impact pressure. That is not what happened here.

Further, the Superintendent argues Officer Halloran’s contact with the person’s head was accidental and only incidental to his baton use. This ignores the fact that Officer Halloran forcefully thrust his arms. Officer Halloran denied using his baton as an impact weapon, but COPA cannot credit that statement given the video evidence showing him powerfully shoving his baton back and forth. Even if COPA were to assume Officer Halloran did not intend to hit the individual in the head, his actions exhibited such a reckless disregard for the safety of citizens in his reach that COPA would still conclude he violated Department policy.<sup>5</sup> Department members are required to continually assess whether the level of force they use is objectively reasonable under the circumstances. Officer Halloran was therefore charged with determining whether the use of his baton to push back people was reasonable. COPA maintains that Officer Halloran’s

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<sup>4</sup> See <https://www.merriam-webster.com/dictionary/impact> (last visited May 18, 2022). “When a statute does not define its own terms, a reviewing court may use a dictionary to ascertain the plain and ordinary meaning of those terms.” *Maschek v. City of Chicago*, 2015 IL App (1st) 150520, ¶ 56 (citing *People v. McChriston*, 2014 IL 115310, ¶ 15, 378 Ill. Dec. 430, 4 N.E.3d 29, and *People v. Bingham*, 2014 IL 115964, ¶ 55, 381 Ill. Dec. 472, 10 N.E.3d 881).

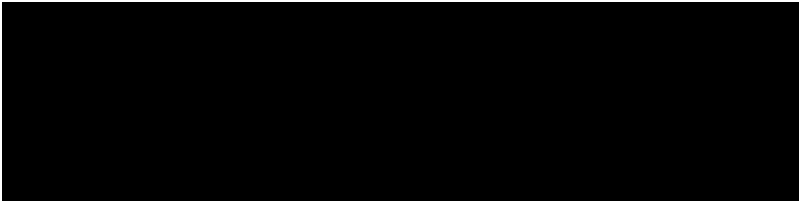
<sup>5</sup> See *Hough v. Mooningham*, 139 Ill. App. 3d 1018, 1021 (5th Dis. 1986) 429 (1980) (stating that “a claim of wilful and wanton misconduct may be proven by a showing that the injury was caused intentionally or under circumstances exhibiting a reckless disregard for the safety of others.”) (citing *Lynch v. Board of Educ.*, 82 Ill. 2d 415, 429 (1980).

use of his baton in a manner that struck a passive resister in the head was not reasonable under the circumstances.<sup>6</sup>

### III. CONCLUSION

For these reasons, COPA maintains that the Superintendent has failed to meet his affirmative burden of showing COPA's recommendation in this case was 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 suspend Officer Halloran for 60 days.<sup>7</sup>

Respectfully,



Andrea Kersten  
Chief Administrator  
Civilian Office of Police Accountability

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<sup>6</sup> The fact that others in the crowd may have been attacking officers also does not authorize the level of force Officer Halloran used with respect to the unidentified individual under Department policy. COPA does not believe officers may indiscriminately employ force under such circumstances.

<sup>7</sup> The Superintendent compares this case to one recently decided by an independent member of the Police Board under Log No. 2020-0002368. Respectfully, COPA disagrees with that decision. In addition, COPA believes the evidence in this case is sufficient to establish that Officer Halloran intended to, or effectively intended to, strike the individual in the head with his baton.

**Copy of Superintendent's Letter**



**Lori Lightfoot**  
Mayor

**Department of Police • City of Chicago**  
3510 South Michigan Avenue • Chicago, Illinois 60653

**David O. Brown**  
Superintendent of Police

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April 1, 2022

Andrea Kersten  
Chief Administrator  
Civilian Office of Police Accountability  
1615 West Chicago Avenue, 4<sup>th</sup> Floor  
Chicago, IL 60622

Re: Superintendent's Non-Concurrence with COPA's Investigative Finding & Proposed Penalty  
Complaint Register 2021-0002341  
Police Officer Patrick Halloran #8245 (Employee No. 118927)

Dear Chief Administrator:

After a review of the above referenced Complaint Register (CR) file, the Chicago Police Department (CPD) does not concur with the sustained investigative finding or the penalty recommendation of a sixty-day (60-day) suspension for Police Officer Patrick Halloran, Star #8245.

It is alleged that on August 15, 2020, Officer Halloran struck an unidentified female citizen with a baton without justification. COPA sustained this allegation and also sustained the allegations that Officer Halloran failed to activate his Body Worn Camera, failed to document his baton use on required CPD reports, failed to notify OEMC of his baton use and failed to request a supervisor to the scene of his baton use.

Officer Halloran was assigned to the intersection of Michigan Avenue and Wacker Drive to assist with crowd control during the civil unrest. On this date, the planned protest was to shut down the Dan Ryan Expressway. Officer Halloran's assignment was to prevent protestors from moving eastward on Wacker Drive in their attempt to shut down Lake Shore Drive.

As Officer Halloran and other officers stood in a line to prevent protestors from passing, the officers can be heard repeatedly telling the protestors to move back. The protestors can be heard repeatedly stating to each other that if in the front, to grab an umbrella and get as close as possible. As the protestors encroached on the officers, officers can still be heard telling the protestors to move back. Officer Halloran can clearly be seen in the video holding his baton with one hand at each end of the baton and holding the baton horizontal, consistent with CPD training on crowd control. At no time does Officer Halloran swing his baton with only one hand or in any

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**Emergency: 9-1-1 • Non-Emergency: (Within City limits) 3-1-1 • Non-Emergency and TTY: (Outside City limits) 312-746-6000**

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type of baseball bat-type swing. Officer Halloran maintains two hands on the baton at all times despite the video evidence showing protestors swinging their umbrellas and throwing objects at Officer Halloran and other officers and attempting to grab Officer Halloran's baton. The contact made of the baton with the helmet of the unidentified female appears to be accidental and only incidental to his baton use as crowd control instrument. As such, this allegation should be "Not Sustained."

As Officer Halloran used his baton as a crowd control instrument and not as an impact weapon, there is no requirement to do a report to document the use of force nor is there a requirement to notify OEMC and/or a supervisor. Therefore, these three allegations should be "Not Sustained."

Regarding the failure to activate his body worn camera, Officer Halloran gives a plausible explanation that he did not activate his camera because he knew he would be working an extended tour of duty and that he did not want to wear down his battery because it was difficult to replace/recharge in the field. Although Officer Halloran should have had his camera activated, he was attempting to do the right thing and not attempting to hide any type of misconduct.

Based on the evidence and Officer Halloran's admission, the allegation that Officer Halloran failed to activate his bod worn camera should be "Sustained." With only four years of service, Officer Halloran has an exceptional complimentary history of 22 total awards, including 1 Department Commendation and 19 honorable mentions. Further, the only discipline imposed on Officer Halloran is two separate reprimands given in Summary Punishment for a preventable Traffic Crash and for leaving his duty assignment. However both these disciplinary actions occurred one year after the date of the incident in this investigation. Based on Officer Halloran's complimentary and disciplinary history as well as the overall time period of the civil unrest and the circumstances that Officer Halloran and other CPD members faced, the appropriate penalty for this violation is a Reprimand.

This investigation is very similar to the COPA investigation under Log No. 2020-0002368 in which COPA sustained an allegation against Officer Daniel Golden that he struck the complainant with a baton without justification. COPA also recommended a 60 day suspension for Officer Golden. After the CPD and COPA discussions concluded with no agreement, a Request for Review of this investigation was submitted to the Police Board. The decision of the Police Board member in 22 RR 01 was that the Superintendent met his burden that there was insufficient evidence that Officer Golden used force without justification. The Police Board made a finding of Not Sustained and stated "While engaging in crowd-control activities, Officer Golden used his baton horizontally across his chest consistent with his training to push a crowd back. This was done following verbal warning to the crowd to disperse and consistent with instructions by command. While Officer Golden may have made contact with the complainant, it does not appear that Officer Golden raised his baton to intentionally strike the complainant in the head area."

Sincerely,

A handwritten signature in black ink, appearing to read "David O. Brown". The signature is fluid and cursive, with a long horizontal stroke at the end.

David O. Brown  
Superintendent of Police  
Chicago Police Department

**Copy of SRI**

**SUMMARY REPORT OF INVESTIGATION**

Date/Time/Location of Incident:	August 15, 2020 / 5:12 pm / 100 E. Wacker Dr., Chicago, IL 60601.
Date/Time of COPA Notification:	June 16, 2021 / 3:49 pm.
Involved Officer #1:	Officer Patrick Halloran / Star #8245 / Employee ID #118927 / DOA: August 29, 2016 / Unit: 009 / Male / White
Involved Individual #1:	Unidentified / White / Female
Case Type:	05E - Excessive Force

**I. ALLEGATIONS**

Officer	Allegation	Finding
Officer Halloran	1. Striking an unidentified female citizen with your baton, without justification.	Sustained
	2. Failing to activate your Body Worn Camera.	Sustained
	3. Failing to document your baton use in required Departmental reports.	Sustained
	4. Failing to notify OEMC of your baton use.	Sustained
	5. Failing to request a supervisor to the scene of your baton use.	Sustained

**II. SUMMARY OF EVIDENCE<sup>1</sup>**

Officer Patrick Halloran was one of many Department members assigned to crowd control during a preplanned instance of civil unrest. While assisting with crowd control, Officer Halloran was placed at the front of the Department line, directly facing a large group of citizens. To assist in his efforts to control the crowd, Officer Halloran held his baton parallel to the ground with each end grasped in his hands. While standing on the control line, unidentified citizen began pelting members with various objects, some of which struck Officer Halloran. Additionally, an unidentified citizen, attempted to pull an unidentified member across the control line into the crowd of citizen.<sup>2</sup> After this occurred, orders were issued to move the crowd back. As members began to push the crowd back, the crowd began to push towards the members. Officer Halloran, and many other members, used their batons as control instruments to push the crowd back by holding the baton parallel to the ground and thrusting forward at chest level while ordering the

<sup>1</sup> The Department declared a Mass Arrest Incident on *date* for this incident. Att. 17.

<sup>2</sup> Att. 2 at 42:51.



crowd to step back. During one of the trusts Officer Halloran's baton contacted a bicycle helmet worn by an unidentified white female.<sup>3</sup> Eventually the crowd was moved, and the civil unrest subsided. At no time did the unidentified white female allege injury nor did she have any visible injuries.

During his statement to COPA, Officer Halloran described his use of his baton as a control instrument and not as an impact weapon. Additionally, Officer Halloran relayed that he did not notify OEMC of his baton use out of a desire to keep the radio traffic at a minimum to allow other members to request assistance in various civil unrest locations. Further, Officer Halloran explained that he did not request a supervisor to the scene of his baton use because he was flanked by several members of supervision, to include a Deputy Chief. Additionally, Officer Halloran explained that he did not complete any reports for this incident because it was his understanding that a Departmentwide Tactical Response Report (TRR) would be completed for any use of force related to the civil unrest and that he believed his use of a baton as a control instrument did not require a TRR. Finally, Officer Halloran relayed that he did not activate his BWC because he did not know how long a BWC battery would last and was concerned the would be in a situation that would require his BWC to record.<sup>4</sup>

### III. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.<sup>5</sup> If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal

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<sup>3</sup> *Id.*, at 43:02.

<sup>4</sup> Officer Halloran did acknowledge that based on policy, he should have activated his BWC while responding to the civil unrest.

<sup>5</sup> *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not).

offense.<sup>6</sup> Clear and Convincing can be defined as a “degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.”<sup>7</sup>

#### IV. ANALYSIS AND CONCLUSION

COPA finds that Allegations #s 1, 3, 4, and 5 against Officer Halloran are **sustained**. Department members are permitted to use force to overcome resistance.<sup>8</sup> When members encounter a citizen who fails to comply with verbal or other direction, that citizen is a passive resister.<sup>9</sup> Members are permitted to respond to passive resistance with presence; verbal directions; holding and compliance techniques; control instruments; and deployment of oleoresin capsicum but are not permitted to use an impact weapon.<sup>10</sup> Additionally, members are permitted to use batons as control instruments in response to passive or active resistance; however the use is limited to non-impact pressure.<sup>11</sup> Finally, when members deploy a baton as a impact weapon they are required to complete a TRR and Original Incident Case Report, while informing OEMC of their baton use and requesting a supervisor to respond to the use of force.<sup>12</sup>

Here, when the crowd of citizens, to include the unidentified white female, refused orders to move back they were passive resisters. Since the crowd was passive resisters towards members, to include Officer Halloran, the use of a baton as a control instrument was permissible if non-impact pressure was applied. However, in this instance, Officer Halloran thrusts the baton forward were akin to impact use and in fact he impacted the helmet on unidentified female’s head. While Officer Halloran described he intent to use the baton as a control instrument, he in fact deployed it as an impact weapon, in violation of Department policy and Rules 2, 3 and 6. Additionally, since Officer Halloran deployed the baton as an impact weapon, he was required to notify OEMC of his baton use, request a supervisor to the scene and complete a TRR and Original Case Incident report. These failures violated Department policy and Rule 2, 3 and 6.

COPA finds that Allegation #2 against Officer Halloran is **sustained**. Department Members are required to activate BWC “at the beginning of” or “as soon as practical” for “all law-enforcement-related activities.”<sup>13</sup> Here, it is undisputed that Officer Halloran did not activate his BWC despite policy requiring the activation. Officer Halloran’s failure violated Department policy and Rules 2, 3, and 6.

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<sup>6</sup> *People v. Coan*, 2016 IL App (2d) 151036 (2016).

<sup>7</sup> *Id.* at ¶ 28.

<sup>8</sup> See G03-02-01 generally.

<sup>9</sup> G03-02-01 IV(B)(1), Response to Resistance and Force Options.

<sup>10</sup> G03-02-01 IV(B)(1)(a-d).

<sup>11</sup> G03-02-07 II(C)(2), Baton Use Incidents.

<sup>12</sup> G03-02-07 III(B), IV(A)(1),(3)and(4).

<sup>13</sup> “Law-enforcement-related activities include but are not limited to:” “calls for service; investigatory stops; traffic stops; traffic control; foot and vehicle pursuits; arrest; use of force incidents; seizure of evidence; interrogations; searches, including searches of people, items, vehicle, buildings, and places; statements made by individuals in the course of an investigation; requests for consent to search; emergency driving situations; emergency vehicle responses where fleeing suspects or vehicle may be captured on video leaving the crime scene; high-risk situations; any encounter with the police that becomes adversarial after the initial contact; arrestee transports; any other instance when enforcing the law.” S03-14 III(A)(2)(a-r), Body Worn Cameras (effective April 30, 2018 to current).

**V. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Officer Halloran**

**i. Complimentary and Disciplinary History**

Officer Halloran has received 22 various awards. Additionally, in August of 2021, Officer Halloran received two SPARs, one for being absent from duty and one for a preventable accident.<sup>14</sup>

**ii. Recommended Penalty**

It is undisputed that Officer Halloran failed to activate his BWC. Additionally, Officer Halloran deployed his baton as an impact weapon, impacting the head of civilian, without justification. Such lapses in officers use of force may give rise to serious injuries and discredits the department. Accordingly, COPA recommends a **60-day suspension**.

Approved:



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Matthew Haynam  
*Deputy Chief Investigator*

2/16/2022

\_\_\_\_\_  
Date

<sup>14</sup> Att. 16, pg. 3.

## Certificate of Meeting

## CERTIFICATE OF MEETING AND SERVICE

I, Andrea Kersten, Chief Administrator of the Civilian Office of Police Accountability (COPA), hereby certify the following with respect to Log No. 2021-0002341:

1. On February 16, 2022, COPA provided the Superintendent the final disciplinary file related to COPA's recommendation of discipline in the above log number.
2. COPA received the Superintendent's written response on April 1, 2022.
3. On May 17, 2022, COPA designees met with Department designees to conclude their discussion of the non-concurrence related to the above log number.
4. The Request for Review was referred to the Police Board on May 24, 2022. It was delivered as a PDF attached to an email addressed to Executive Director Max Caproni.
5. Pursuant to § 2-78-130, on May 24, 2022, the Superintendent's designees were provided by email notice that the Chief Administrator referred the above log number to the Police Board for a Request for Review. The Superintendent's designees were also provided by email with a copy of the Certificate and all Request for Review material that was sent to the Police Board.



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Andrea Kersten  
Chief Administrator  
Civilian Office of Police Accountability

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May 24, 2022  
Date