



February 15, 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 #2020-0002638

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 # 2020-0002638.¹

As set forth in detail in COPA's Summary Report of Investigation dated September 20, 2021 (SRI), there is a compelling legal and evidentiary basis to support COPA's disciplinary recommendation based on a finding that Officer Daniel Golden committed misconduct by striking [REDACTED] 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 Background²

On June 11, 2020, [REDACTED] contacted COPA and alleged that Officer Daniel Golden struck her on her face with a baton without justification on May 30, 2020. Officer Golden struck [REDACTED] with such force that her nose was fractured. [REDACTED] credibly identified Officer Golden by the name tag on his uniform, a physical description, and by identifying Officer Golden's partner that day. Witnesses corroborated [REDACTED] [REDACTED] assertion that officers were holding their batons in a horizontal manner to push people. Officer Golden told COPA that he used his baton in the manner described by [REDACTED] [REDACTED] and other witnesses. Officer Golden stated he could not recall striking [REDACTED] but indicated it was possible he inadvertently struck a person on their upper extremities.

B. Disputed Findings and Recommendations

¹ As required by the Police Board Rules of Procedure, enclosed are copies of COPA's final summary report, the Department's December 13, 2021 non-concurrence letter, and the certificate of meeting. Please note that the final version of the summary report attached hereto incorrectly uses log number #2020-2368 in its header.

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

As the Superintendent states in the enclosed letter, he does not concur with COPA's finding that Officer Golden struck [REDACTED] with a baton.

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."

II. ANALYSIS

A. The preponderance of the evidence shows that Officer Golden struck [REDACTED] with his baton without justification.

COPA stands by the summary of the evidence and analysis in its SRI. As set forth more fully there, COPA determined that [REDACTED] account was credible based on available evidence. Officer Golden failure to recall the incident does not negate that evidence.

Furthermore, the Superintendent suggests Officer Golden should not be held accountable for mis-using his baton because he did not intend to strike anyone in the face. But Department members are required to continually assess whether the level of force they use is objectively reasonable under the circumstances. Officer Golden was therefore charged with determining whether the use of his baton to push back people was reasonable. COPA maintains that Officer Golden's use of his baton in a manner that fractured [REDACTED] nose was not reasonable under the circumstances.³

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 Golden for 60 days.

Respectfully,

[REDACTED]

Andrea Kersten
Interim Chief Administrator
Civilian Office of Police Accountability

³ The fact that others in the crowd may have been attacking other officers also does not authorize the level of force Officer Golden used with respect to [REDACTED] under Department policy. Officer Golden did not indicate that [REDACTED] actions posed a threat to him or other officers.