

**SUMMARY REPORT OF INVESTIGATION**

Date/Time/Location of Incident:	Multiple Dates and Times via Facebook
Date/Time of COPA Notification:	June 29, 2020, 12:51 P.M.
Involved Officer #1:	John Cannon, Star #412, Employee ID # [REDACTED], Date of Appointment: April 13, 1998, Lieutenant, 18 <sup>th</sup> District, DOB: [REDACTED], 1971, Male, White
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1981, Male, White
Case Type:	Verbal Abuse/Social Media

Civilian Complainant, [REDACTED] observed and reported multiple racist, sexist, xenophobic, and homophobic Facebook posts made by Chicago Police Department (“CPD” or “the Department”) Lieutenant (“Lt.”) John Cannon.

**I. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding/ Recommendation</b>
Lieutenant John Cannon	1. It is alleged that on or about June 25, 2020, Lieutenant John Cannon made a statement on Facebook that was disrespectful to CPD, in that he posted an image of a man in a Blue Lives Matter hat holding multiple boots in his arms, with the text, “How do I lick all these boots (sic.)”	Unfounded
	2. It is alleged that on or about June 25, 2020, Lieutenant John Cannon reposted a statement on Facebook that was biased against African Americans and Muslims, in that it depicted a picture of President Obama wearing a turban with the text “Obama is ISIS.”	Sustained/ Separation
	3. It is alleged that on or about June 25, 2020, Lieutenant John Cannon posted a statement on Facebook that was biased against African Americans, in that it responded to an academic paper in support of the Black Lives Matter movement by stating, “The factionalized element in charge of higher education, is dangerous to the Sovereign. Truly an enemy of the State (sic).”	Not Sustained

<p>4. It is alleged that on or about June 13, 2020, Lieutenant John Cannon reposted a statement on Facebook that was biased against African Americans and Asians, in that it depicted a white child with the words “asking her to apologize for slavery” and an Asian child with the words “is like asking her to apologize for Pearl Harbor.”</p>	Sustained/ Separation
<p>5. It is alleged that on or about June 8, 2020, Lieutenant John Cannon reposted a statement on Facebook that was biased against African Americans, by stating, “Welcome to peasantry, equal not good enough huh?” and “White privilege is a myth perpetuated by those who hate white people (sic).”</p>	Sustained/ Separation
<p>6. It is alleged that on or about April 5, 2020, Lieutenant John Cannon reposted a statement on Facebook that was offensive toward members of the public, in that it depicted a man in a Sherriff uniform with the text “back up ya sonsofbitches 6 feet away from me or I’ll shoot your corona infested asses (sic).”</p>	Sustained/ Separation
<p>7. It is alleged that on or about February 9, 2020, Lieutenant John Cannon reposted a statement on Facebook that was biased against homosexuals and firemen, in that it depicted four naked men in bed together with the text “meanwhile at the firehouse...”</p>	Sustained/ Separation
<p>8. It is alleged that on or about September 9, 2019, Lieutenant John Cannon reposted a statement on Facebook that was biased against women, in that it depicted an image of Clint Eastwood with the text, “A she-shed? In my day we called that a kitchen,” written below.</p>	Sustained/ Separation
<p>9. It is alleged that on or about August 4, 2019, Lieutenant John Cannon reposted a statement on Facebook that was biased against African Americans, in that he reposted a side-by-side image of Roseanne Barr and Jussie Smollett with the text, “Racism in 2019: Fired after a bad joke (above Roseanne Barr), Working after an EVIL joke (above Jussie Smollett).”</p>	Sustained/ Separation
<p>10. It is alleged that on or about May 18, 2019, Lieutenant John Cannon reposted a statement on Facebook that was biased against African Americans and other minority groups, by stating, “Let me get this straight... the Democratic candidate want to win back the vote of working class men and women by promising to take back our tax cut, open our borders, give reparations to people my great great grandpa never harmed and use my taxes to pay off the debt of college</p>	Sustained/ Separation

<p>kids who look down upon me as being ‘white privileged,’ got it (sic).”</p>	Sustained/ Separation
<p>11. It is alleged that on or about April 27, 2019, Lieutenant John Cannon reposted a statement on Facebook that was biased against Muslims and women, in that it depicted photos of Ilhan Omar, Alexandria Ocasio-Cortez, Ayanna Pressley, and Rashida Tlaib with the text, “We’re new, bold, and we hate you too,” and the response, “The party of freaks, antisemitics, racist, DANGEROUS. The new KKK wing of the party (sic).”</p>	
<p>12. It is alleged that on or about April 16, 2019, Lieutenant John Cannon reposted a statement on Facebook that was biased against Muslims, which depicts a cartoon wooden horse being pulled through a door. The text “America” is written at the door and people appear to stand with their hands up blocking the horse. The person dragging the horse is depicted with the word “democrat” and the horse has the words “Ilhan Omar” and “Sharia Law” written on it.</p>	Sustained/ Separation
<p>13. It is alleged that on or about March 15, 2019, Lieutenant John Cannon reposted a statement on Facebook that was biased against Muslims, in that he reposted an image with the text, “I don’t feel safe wearing my headscarf in Trump’s America,” and the response, “Really? Try being a white catholic kid in a MAGA hat.”</p>	
<p>14. It is alleged on that or about March 10, 2019, Lieutenant John Cannon reposted a statement on Facebook that was biased against Muslims, which depicts the image of Abdullah Zuber and states, “Jihad will continue until all the Hindus, Christians, Buddhists, Atheists are killed. Your secularism &amp; tolerance can not change our ideology. Quran does NOT permit survival of non-Muslims (sic).” The text below advises, “Keep this in mind as new members of Congress who are Muslim are sworn into office on this book of death and inequality (sic).”</p>	Sustained/ Separation
<p>15. It is alleged that on or about January 28, 2019, Lieutenant John Cannon reposted a statement on Facebook that was biased against members of the LGBTQ community, in that he reported side-by-side images of a young man in a MAGA hat and a young person in drag with the text, “LIBERAL LOGIC: Kid in MAGA hat, offensive. Kid in drag, BRAVE!”</p>	
<p>16. It is alleged that on or about January 8, 2019, Lieutenant John Cannon reposted a statement on Facebook that was biased against Hispanic people and immigrants, in that he</p>	Sustained/ Separation

<p>reposted an image of soldiers with the text, “Democrats will stop these people’s paychecks,” and an image of Hispanic people with the text, “To protect illegal people like this. Let that sink in.”</p>	
<p>17. It is alleged that on or about November 18, 2018, Lieutenant John Cannon posted a statement on Facebook that was biased against Hispanic people, by stating, “Working class Mexican residents of Tijuana are worried that the South American invaders are going to compete for their jobs and bring crime and drugs. Let that sink in. And they are probably correct in some respects (sic).”</p>	<p>Sustained/ Separation</p>
<p>18. It is alleged that on or about October 5, 2018, Lieutenant John Cannon posted a statement on Facebook that was disrespectful to CPD, by stating, “Festering maggot filled pool of scum and villany (sic). I will be glad when I can leave.”</p>	<p>Not Sustained</p>
<p>19. It is alleged that on or about July 15, 2018, Lieutenant John Cannon posted a statement on Facebook that was disrespectful to CPD, in that he responded to a post containing the BWC footage of a police-involved shooting by stating, “Brave young warriors face to face with an urban terrorist and the better trained professional Police Officer won the day. Excellent work by all the new batch of warriors. Love it. (sic)”</p>	<p>Sustained/ Separation</p>

**II. APPLICABLE RULES AND LAWS**

Rules<sup>1</sup>

1. Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.<sup>2</sup>

<sup>1</sup> Police Board of Chicago, *Rules and Regulations of the Chicago Police Department, Article V. Rules of Conduct* (April 1, 2010), available at <https://www.chicago.gov/dam/city/depts/cpb/PoliceDiscipline/RulesofConduct.pdf>.

<sup>2</sup> This Rule applies to both the professional and private conduct of all members. It prohibits any and all conduct which is contrary to the letter and spirit of Departmental policy or goals or which would reflect adversely upon the Department or its members. It includes not only all unlawful acts by members but also all acts, which although not unlawful in themselves, would degrade or bring disrespect upon the member or the Department, including public and open association with persons of known bad or criminal reputation in the community unless such association is in the performance of police duties. It also includes any action contrary to the stated policy, goals, rules, regulations, orders, or directives of the Department.

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2. Rule 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.<sup>3</sup>
  3. Rule 6: Disobedience of an order or directive, whether written or oral.
  4. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
  5. Rule 32: Engaging in any public statements, interviews, activity, deliberation or discussion pertaining to the Police Department which reasonably can be foreseen to impair the discipline, efficiency, public service, or public confidence in the Department or its personnel by: (a) false statements, or reckless, unsupported accusations. (b) the use of defamatory language, abusive language, invective or epithets.
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#### General Orders<sup>4</sup>

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1. G02-01, Human rights and Human Resources (Eff. Oct. 5, 2017-present).
2. G09-01-06, Use of Social Media (various effective dates)

### III. SUMMARY OF EVIDENCE<sup>5</sup>

In his interview with COPA, complainant ██████████ stated he came across a Twitter account called "AntiFash Gordon" that reports on police officers across the country involved in violent right-wing organizations.<sup>7</sup>

Mr. ██████████ told COPA that while he was on Twitter and Facebook, he discovered a Twitter account named ██████████ which shared a number of offensive Facebook posts by Chicago Police Lieutenant John Cannon, under the name "Samuel Hipster."<sup>8</sup> Mr. ██████████ subsequently wrote a letter to the Cook County State's Attorney's Office regarding Lt. Cannon, stating, "I recently learned of the behavior of Lt. John Cannon of the Chicago Police Department.

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<sup>3</sup> This Rule prohibits any omission or failure to act by any member of the Department, whether on or off duty, which act would be required by the stated policy, goals, rules, regulations, orders, and directives of the Department. It applies to supervisory and other members who, through carelessness, inefficiency or design fail to implement all policy goals, rules, regulations, orders, and directives of the Department or fail to report to the Department any and all known violations of same, or who through carelessness, inefficiency or design fail to become aware of any such violation, when their assigned duty or supervisory responsibility would require them to become so aware.

<sup>4</sup> Department general and special orders, also known as directives, "are official documents establishing, defining, and communicating Department-wide policy, procedures, or programs issued in the name of the Superintendent of Police." Department Directives System, General Order G01-03; *see also* Chicago Police Department Directives System, available at <http://directives.chicagopolice.org/#directive> (last accessed October 25, 2021).

<sup>5</sup> COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital and documentary evidence. As part of COPA's ongoing efforts to increase case closure capacity, certain cases are summarized more succinctly in a Modified Summary Report of Investigation.

<sup>6</sup> Att. 10.

<sup>7</sup> Mr. ██████████ complaint also identified Chicago Police Officer Robert Bakker as being a member of the Chicago chapter of the Proud Boys, a far right-wing neo-Nazi organization. Officer Bakker used the platform Telegram to communicate with other members of the Proud Boys, using his full government name and identifying himself as a Chicago Police Officer. Since the complaint against Officer Bakker did not raise direct issues of Verb Abuse but was based on Officer Bakker's membership to local Proud Boys organization, COPA referred Mr. ██████████ complaint against Officer Bakker to CPD's Bureau of Internal Affairs.

<sup>8</sup> Att. 7. This Twitter page has since been deactivated; therefore, COPA was unable to contact ██████████ for an interview.

The level of racism and sexism is astounding and clearly makes him unsafe to serve our community.” Mr. ██████ provided COPA with screenshots to support his claims against Lt. Cannon.<sup>9</sup>

COPA conducted an interview with Lt. John Cannon on March 16, 2021.<sup>10</sup> At the beginning of the interview, Lt. Cannon stated he is a law student at John Marshall Law School, where he alleges he has been the victim of harassment and discrimination by multiple Deans and a visiting lecturer.<sup>11</sup>

Lt. Cannon admitted that the “Samuel Hipster” Facebook account belongs to him. He provided detailed responses to each allegation (*see below*), and additionally stated that he created the Facebook handle, “Samuel Hipster,” to distance himself from CPD and to maintain his anonymity. He also intended for the account to be jestful and humorous. Lt. Cannon alleged that a visiting professor “hacked” his account, stole his content, and misconstrued the meaning of his posts in reposting them to other platforms.

Lt. Cannon further stated that his Facebook page is private except to his friends and family. However, Lt. Cannon admitted he did not know if the page had ever been public.<sup>12</sup> He claimed an unknown individual obtained screenshots of the content from his Facebook page without his permission.<sup>13</sup>

#### **IV. LEGAL STANDARD**

##### **a. Applicable Department Directives.**

##### **i. Human Rights**

General Order G02-01, Human Rights and Human Resources sets forth the Department policy, procedure, and guidelines governing the human rights of all individuals. The policy recognizes that Chicago’s cosmopolitan nature is manifested by the diverse ethnic and sociological background of its people and encompasses a variety of communities, each with its own distinctive cultures, lifestyles, customs and problems. All persons in each area of the City share the common need for protection and service through objective and impartial law enforcement. Moreover, the policy reflects the recognition of individual dignity as vital in a free society and states that:

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<sup>9</sup> Att. 22.

<sup>10</sup> Atts. 17 and 20.

<sup>11</sup> Lt. Cannon indicated that he has filed complaints with the Illinois Department of Human Rights and the EEOC related to this harassment and discrimination. The complaints claim that COPA served Lt. Cannon with 19 allegations as a result of the retaliatory actions and harassment by visiting lecturer ██████. Lt. Cannon provided COPA with a document, which he called an affidavit, that outlined this alleged harassment. His complaint stems from a Dean at the law school sending a school-wide email that included an anti-police slogan. Att. 21. Prior to Lt. Cannon’s statement, COPA had no knowledge of the complaints Lt. Cannon filed at John Marshall Law School. Mr. ██████ the complainant who reported Lt. Cannon’s hate speech to COPA, is not named in the affidavit that Lt. Cannon provided to COPA.

<sup>12</sup> Att. 23, pg. 69.

<sup>13</sup> Att. 23, pg. 63, line 10.

Since all persons are subject to the law, all persons have the right to dignified treatment under the law. The protection of this right is a fundamental responsibility of the Department and its members. Every Department member is responsible for treating each person with respect, mindful that the person possesses human emotions and needs.

In all contacts with the public, Department members must inspire respect for themselves as individuals and as representatives of the Department by respecting the human rights of the members of the community. In addition to respect for those human rights prescribed by law, Department members will treat all persons with the courtesy and dignity that is inherently due every person as a human being. Department members will act, speak and conduct themselves in a professional manner, recognizing their obligation to safeguard life and property, and maintain a courteous, professional attitude in all contacts with the public.

## **ii. Use of Social Media**

General Order G09-01-06, Use of Social Media Outlets<sup>14</sup>, establishes guidelines and responsibilities of Department members using social media outlets. That order provides:

Social media outlets<sup>15</sup>, when used in a proper manner, can reinforce the Department's relationship with the public, build community support, and assist in solving crime. Department members have a constitutional right to express their views under the First Amendment. However, Department members may be subject to discipline for violating the provisions of this directive. Any social media participation made pursuant to a Department member's official duties is not considered protected speech under the First Amendment.

The directive informs officers that materials they post to a public forum may be accessed by the Department at any time, and cautions officers about use of public domains:

Department members should be mindful that their communications become part of the worldwide electronic public domain. Department members should be aware that privacy settings and social media sites are subject to constant modifications, and they should never assume that personal information posted on such sites is protected or secure.

When using social media,<sup>16</sup> Department members are prohibited from posting, displaying, or transmitting, information including:

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<sup>14</sup> This case includes allegations related to posts spanning from July 15, 2018 to June 25, 2020. This Directive was updated effective February 29, 2020. Substantive differences in these two versions of the policy are highlighted herein, and where such differences exist, COPA will apply the version in effect at the time the speech was made.

<sup>15</sup> The policy defines "social media outlets" to include all electronic communications through which participants can share information, ideas, messages including but not limited to text, video, and photographs.

<sup>16</sup> The policy differentiates between personal accounts and Departmental accounts. COPA did not bring any allegations implicating Department accounts.

1. Any communications that discredit or reflect poorly on the Department, its missions, or goals; or
2. Content that is disparaging to a person or group based on race, religion, sexual orientation, or any other protected class. The February 29, 2020 version of the order was updated to add the following classes: color, sex, gender identity, age, disability, national origin, ancestry, marital status, parental status, military status, source of income, credit history, criminal record, and criminal history.

**ii. Supervisor Responsibilities**

The Department's Regulations Establishing the Duties of Members provides that supervisors have the following responsibilities.<sup>17</sup> They will:

- a. Be "responsible and accountable for the maintenance of discipline and will provide leadership, supervision and continuing training and example to ensure the efficiency of unit operations."
- b. Provide leadership and guidance in developing loyalty and dedication to the police profession.
- c. [D]eal fairly and equitably with all members
- d. Ensure that all Policy, Rules, Regulations, Orders and Directives of the Department are enforced and implemented by their subordinates.

**b. Police Officers' First Amendment Rights.**

**iii. There are three primary elements in determining whether a public employee's speech is constitutionally protected.**

COPA evaluates Lt. Cannon's speech under both Department policy and under the First Amendment to the United States Constitution. This is because under certain conditions, governmental entities may regulate their employees' speech, for example by establishing rules such as the Department's directives, without violating the First Amendment to the United States Constitution. Courts recognize that "[w]hen a citizen enters government service, the citizen by necessity must accept certain limitations on [their] freedom."<sup>18</sup> As articulated by the Supreme Court, governmental employers may need to impair their employees' First Amendment rights for several reasons, including to provide public services efficiently, and to control the fact that public employees "often occupy trusted positions in society. When they speak out, they can express views that contravene governmental policies or impair the proper performance of governmental functions."<sup>19</sup>

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<sup>17</sup> Rules and Regulations of the Chicago Police Department, section IV.B. This list includes duties relevant to COPA's analysis.

<sup>18</sup> *Garcetti v. Ceballos*, 547 U.S. 410, 418 (2006).

<sup>19</sup> *Garcetti v. Ceballos*, 547 U.S. 410, 418-19 (2006).

That said, a public employee's speech may be constitutionally protected under certain conditions. First, the employee must have been speaking as a private citizen.<sup>20</sup> Second, that speech must address a matter of public concern.<sup>21</sup> Third, the public employee's interest in expressing that speech is not outweighed by the governmental entity's interest in "promoting effective and efficient public service."<sup>22</sup>

A public employee who speaks pursuant to their official duties is not speaking as private citizen.<sup>23</sup> "In determining whether a public employee is speaking as an employee or as a citizen, the 'proper inquiry must be a practical one' that considers whether the speech is part of the employee's 'daily professional activities.'"<sup>24</sup>

Police officers, speaking as private citizens, retain a First Amendment right to comment on matters of public concern.<sup>25</sup> Speech addresses a matter of public concern if it can be "fairly considered as relating to any matter of political, social, or other concern to the community."<sup>26</sup> "Whether an employee's speech addresses a matter of public concern must be determined by the content, form, and context of a given statement, as revealed by the whole record."<sup>27</sup> "Public concern is something that is a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public at the time of publication."<sup>28</sup>

Even when officers speak about matters of public concern, they may still face discipline when the Department's interests in promoting the efficiency of its public service outweigh the officer's interest in commenting upon the matter of public concern.<sup>29</sup>

#### **iv. Factors determining whether a public employer's interests outweigh a public employee's interests.**

In balancing the employer's interests against those of the employee, the analysis depends on the following factors: (1) whether the speech would create problems in maintaining discipline or harmony among co-workers; (2) whether the employment relationship is one in which personal loyalty and confidence are necessary; (3) whether the speech impeded the employee's ability to perform her responsibilities; (4) the time, place, and manner of the speech; (5) the context within which the underlying dispute arose; (6) whether the matter was one on which debate was vital to informed decision-making; and (7) whether the speaker should be regarded as a member of the general public.<sup>30</sup>

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<sup>20</sup> *Swetlik v. Crawford*, 738 F.3d 818, 825 (7th Cir. 2013); *Schmidt v. Vill. Of Glenwood*, 2015 U.S. Dist. LEXIS 81776, at \*9 (N.D. Ill. 2015).

<sup>21</sup> *Swetlik*, 738 F.3d at 825.

<sup>22</sup> See *Swetlik*, 738 F.3d at 825; see also *Pickering v. Board of Education*, 391 U.S. 563, 568 (1968).

<sup>23</sup> *Schmidt*, 2015 U.S. Dist. 81776, at \*9.

<sup>24</sup> *Schmidt*, 2015 U.S. Dist. 81776, at \*10 (citing *Chraznowski v. Bianchi*, 725 F.3d 734, 738-39 (7th Cir. 2014)).

<sup>25</sup> *Connick v. Myers*, 461 U.S. 138, 140 (1983). Typically, the First Amendment does not protect the speech of a government employee when the government "employee speaks not as a citizen upon matters of public concern, but instead as an employee upon matters only of personal interest." *Connick*, 461 U.S. at 147.

<sup>26</sup> *Connick*, 461 U.S. at 146.

<sup>27</sup> *Id.* at 147.

<sup>28</sup> *City of San Diego v. Roe*, 543 U.S. 77, 83-84 (2004).

<sup>29</sup> *Pickering v Board of Education*, 391 U.S. 563 (1968).

<sup>30</sup> *Gustafson v. Jones*, 290F.3d 895, 909 (7th Cir. 2002) (citing *Greer v. Amesqua*, 212 F.3d 358 (7th Cir. 2000)).

Under the first prong, police departments have wide latitude to discipline officers for disruptions to the hierarchal structure of police departments.<sup>31</sup> A government employer need not wait for an actual disruption before taking action.<sup>32</sup>

With respect to the second prong, courts recognize that “there is a particularly urgent need for close teamwork among those involved in the high stakes field of law enforcement.”<sup>33</sup> “Speech that might not interfere with work in an environment less dependent on order, discipline, and *esprit de corps* could be debilitating to a police force.”<sup>34</sup>

Under the third prong, the Department possesses a strong interest in regulating officer speech:

Police officers ... are quintessentially public servants. As such, part of their job is to safeguard the public’s opinion of them, particularly with regard to a community’s view of the respect that police officers ... accord the members of that community. The effectiveness of a city’s police department depends importantly on the respect and trust of the community and on the perception in the community that it enforces the law fairly, even-handedly, and without bias.<sup>35</sup>

Accordingly, an officer’s speech that jeopardizes the public’s trust in impartial law enforcement renders that officer incapable of effectively performing their responsibilities. Likewise, the Department has a strong interest in regulating the speech of supervisory officers, as that speech will be more disruptive to the operation of the Department and can have a negative impact on their fitness as a supervisor and role model.<sup>36</sup>

In evaluating the fourth prong, courts consider whether the public employee used available internal dispute mechanisms or instead broadcasted their views to the wider public.<sup>37</sup> Courts also

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<sup>31</sup> *Lalowski v. City of Des Plaines*, 789 F.3d 784 (7th Cir. 2015) (affirming the dismissal of an officer’s Section 1983 lawsuit and finding that the government’s “interests in running an efficient and effective police department outweighed [the officer’s] speech interests, even in relation to his statements that directly addressed matters of public concern.”); *Pappas v. Giuliani*, 290 F.3d 143 (2d Cir. 2002) (affirming the dismissal of an officer’s Section 1983 lawsuit and finding that the officer’s racist diatribes, although anonymous, had a high capacity to impair the effective functioning of the police department and to incite anger and discord among other police officers).

<sup>32</sup> *Greer v. Amesqua*, 212 F.3d 358, 372-73 (7th Cir. 2000) (citing cases).

<sup>33</sup> *Lalowski v. City of Des Plaines*, 789 F.3d 784, 792 (7th Cir. 2015); *see also Gustafson v. Jones*, 290 F.3d 895, 910 (7th Cir. 2002) (accepting the proposition that “a police department is a paramilitary organization built on relationships of trust and loyalty . . .”).

<sup>34</sup> *Breuer v. Hart*, 909 F.2d 1035, 1041 (7th Cir. 1990).

<sup>35</sup> *Lalowski v. City of Des Plaines*, 789 F.3d 784, 792 (7th Cir. 2015). *See also, Locurto v. Giuliani*, 447 F.3d 159, 179–80 (2d Cir. 2006) (“[O]ne’s right to be a police officer or firefighter who publicly ridicules those he is commissioned to protect and serve is far from absolute. Rather, it is tempered by the reasonable judgment of his employer as to the potential disruptive effects of the employee’s conduct on the public mission of the police and fire departments.”).

<sup>36</sup> *Grutzmacher v. Howard County*, 851 F.3d 332, 346 (4th Cir. 2017) (finding that a fire department battalion chief’s supervisory role factored towards the department’s interest in regulating his “like” on Facebook of a picture of a woman giving the middle finger and directed as his Chief).

<sup>37</sup> *See Greer v. Amesqua*, 212 F.3d 358, 371-72 (7th Cir. 2000).

consider whether the speech is abusive or degrading and whether it falls “below the standard of conduct the public expects from police officers, even while off duty.”<sup>38</sup>

The fifth factor considers the context in which the underlying dispute arose. As acknowledged by one court, police departments are generally given greater latitude in their decisions regarding employee discipline than other governmental employers because they are “paramilitary organizations charged with maintaining public safety and order.”<sup>39</sup>

The sixth factor considers whether the expressed statements add to informed decision making.<sup>40</sup> The final factor considers, in this context, whether the officer represented themselves as an officer when speaking, even when off duty.<sup>41</sup>

There is no requirement to analyze each factor in every case.<sup>42</sup> As noted in one Seventh Circuit opinion, however, “[t]he initial, and often determinative, question is whether the speech interferes with the employee’s work or with the efficient and successful operation of the office.”<sup>43</sup> And “one factor of great weight may offset several which lean slightly in the other direction.”<sup>44</sup>

## V. LEGAL ANALYSIS

### a. Lt. Cannon’s social media posts violated Department policy.

COPA analyzed each post individually more fully below to determine whether Lt. Cannon violated Department policy. Overall, COPA finds that his posts violated Department policy in several ways.

First, Lt. Cannon’s posts bring discredit to the Department through their lack of professionalism and discourteous treatment of members of the public. His posts also undermine the Department’s goals in building community support and gaining the public’s trust to assist in solving crime.<sup>45</sup>

Second, Lt. Cannon’s posts include content that is disparaging to a variety of protected classes. Lt. Cannon repeatedly denied that his posts were offensive. But, as stated below, COPA does not find his denials credible.

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<sup>38</sup> *Lalowski*, 789 F.3d at 792.

<sup>39</sup> *Volkman v. Ryker*, 736 F.3d 1084, 1092 (7th Cir. 2013) (citing *Kokkinis v. Ivkovich*, 185 F.3d 840, 845 (7th Cir. 1999)).

<sup>40</sup> See *Pickering*, 391 U.S. at 571-72.

<sup>41</sup> See *Lalowski*, 789 F.3d at 792-93.

<sup>42</sup> See *Harnishfeger v. U.S.*, 943 F.3d 1105, 1115 (7th Cir. 2019).

<sup>43</sup> *Knapp v. Whitaker*, 757 F.2d 827, 842 (7th Cir. 1985).

<sup>44</sup> *Volkman v. Ryker*, 736 F.3d 1084, 1092 (7th Cir. 2013).

<sup>45</sup> The Department recognizes that “[e]ffective law enforcement depends upon a high degree of cooperation between the Department and the public it serves. The practice of courtesy in all public contacts encourages understanding and appreciation; discourtesy breeds contempt and resistance.” Rules and Regulations of the Chicago Police Department, effective April 6, 2015 to present, section I.B.6.

**b. Lt. Cannon's speech is not protected by the First Amendment.**

Lt. Cannon made his posts through a personal, not Departmental, account. Social media posting is not a part of Lt. Cannon's daily professional activities. Therefore, COPA finds he made the social media posts as a private citizen.

As discussed more fully below, COPA finds that many of Lt. Cannon's posts can be "fairly considered" to relate to matters of political or social concern, such as racism, gender dynamics, religion, and socio-economic class. Lt. Cannon did not demonstrate how his interest in making the posts outweighed the Department's interests in fair and impartial policing, professionalism in contacts with the public, and improving police-community relations. Nearly all of the relevant factors weighed against Lt. Cannon and in favor of the Department's interest in regulating his speech.

First, Lt. Cannon's speech is likely to create problems for the Department in maintaining discipline or harmony among co-workers. Department members include members of protected classes. Lt. Cannon, as a Department supervisor, is charged with dealing fairly and equitably with all members.<sup>46</sup> He is also expected to provide leadership and guidance in developing loyalty.<sup>47</sup> His lack of professionalism and evident bias against certain protected classes limit his ability to ensure fair discipline and is likely to create disharmony with co-workers who identify as a member of a protected class.

Second, personal loyalty and confidence are integral to the Department, as with any police force. The Department expects all sworn members to exhibit professional devotion to law enforcement.<sup>48</sup> Department supervisors are tasked with developing loyalty and devotion to law enforcement among their subordinates.<sup>49</sup>

Third, the Department has a strong interest in regulating officer speech. The Department's Rules and Regulations repeatedly emphasize the importance of professionalism and respect in cultivating community support for law enforcement.<sup>50</sup> Other Department orders also explicitly

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<sup>46</sup> See Rules and Regulations of the Chicago Police Department, effective April 6, 2015 to present, section IV.B.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.* at section IV.C.

<sup>49</sup> *Id.* at section IV.B.

<sup>50</sup> The following are just a few examples;

- "The public demands that the integrity of its law enforcement be above reproach, and the dishonesty of a single officer may impair public confidence and case suspicion and disrespect upon the entire Department."
- "Effective law enforcement depends upon a high degree of cooperation between the Department and the public it serves. The practice of courtesy in all public contacts encourages understanding and appreciation; discourtesy breeds contempt and resistance.
- "A recognition of individual dignity is vital in a free system of law. Just as all persons are subject to the law, all persons have a right to dignified treatment under the law, and the protection of this right is a duty which is as binding on the Department and each of its members, as any other. Every member must treat each person with respect and he must be constantly mindful that the people with whom he is dealing are individuals with human emotions and needs."

address the importance of positive encounters with the public. “Strong police-community relationships will promote effective crime reduction and safe community environments.”<sup>51</sup>

The remaining factors also weigh in the Department’s favor, as follows. With respect to the fourth element, which is discussed more fully below, Lt. Cannon’s posts were publicly accessible and fell below the standard of conduct the public expects from police officers. Fifth, the Department needs the ability to discipline its employees for conduct that jeopardizes the public’s trust in its officers. Sixth, COPA fails to see how Lt. Cannon’s posts added to informed decision-making with respect to any of the issues under discussion. Finally, as discussed below, Lt. Cannon’s posts identified him as a member of the Department.

**c. The Samuel Hipster Account was public and identifiable as Lt. Cannon.**

COPA finds that the “Samuel Hipster” account was accessible by the public and identified Lt. Cannon as a Chicago Police Officer. First, Lt. Cannon merely presumed that his account was private. He admitted he did not know if it was set to private, nor did he remember if it was ever set to public, so that anyone on the internet could view it.<sup>52</sup> Lt. Cannon also stated he believed his Facebook friends were limited to his friends and family; however, he was not certain and could not provide information about the identities of his Facebook friends, and whether they actually knew him.<sup>53</sup> The Department’s social media policy cautions that members should be mindful that their communications become part of the public domain, and that social media sites frequently change their privacy settings so officers should never assume the information they post is protected or secure.<sup>54</sup>

Certainly, the account was in some ways public because [REDACTED] was able to access the posts. Lt. Cannon claimed he was “hacked,” but the posts in question appear to be screenshots of Lt. Cannon’s account, not items somehow hacked. Thus, no matter what Lt. Cannon perceived his privacy settings to be, his account was accessible by someone who shared the lieutenant’s posts publicly.<sup>55</sup>

Second, the account identified Lt. Cannon individually and as a police officer.<sup>56</sup> While the name on the account was “Samuel Hipster”, the URL and profile link for the account listed his name: john.m.cannon. (See figure 1). Lt. Cannon also posted a selfie of himself to the Samuel Hipster account, and he admitted he is the person in the photo despite denying that it identified

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<sup>51</sup> G02-03, IV.C.3; *see also* G02-03, Community Policing Mission and Vision (“The Department recognizes that strong partnerships between the community enable the department to build and strengthen trust, identify community needs, and produce positive outcomes.”).

<sup>52</sup> Att. 23, p. 69, ln 2-8.

<sup>53</sup> Lt. Cannon’s answers related to his Facebook friends was highly evasive, as he failed to acknowledge that his friends and family know he is a police officer.

<sup>54</sup> G09-01-06.V.A (eff. Aug 7, 2014) and G09-01-06.III.A (eff. Feb 29, 2020).

<sup>55</sup> *See, e.g. Munroe v. Cent. Bucks Sch. Dist.* 805 F.3d 454, 458 (3d Dist. 2015) (holding that a teacher could be fired for making posts derogatory to her students, even though she used a pseudonym and intended her blog to be only for her friends who were subscribers).

<sup>56</sup> It is undisputed that this was Lt. Cannon’s account, as he admitted it in his interview with COPA as well as in the affidavit/complaint he provided to COPA. *See* Att. 21 at p. 16, ¶ 21.



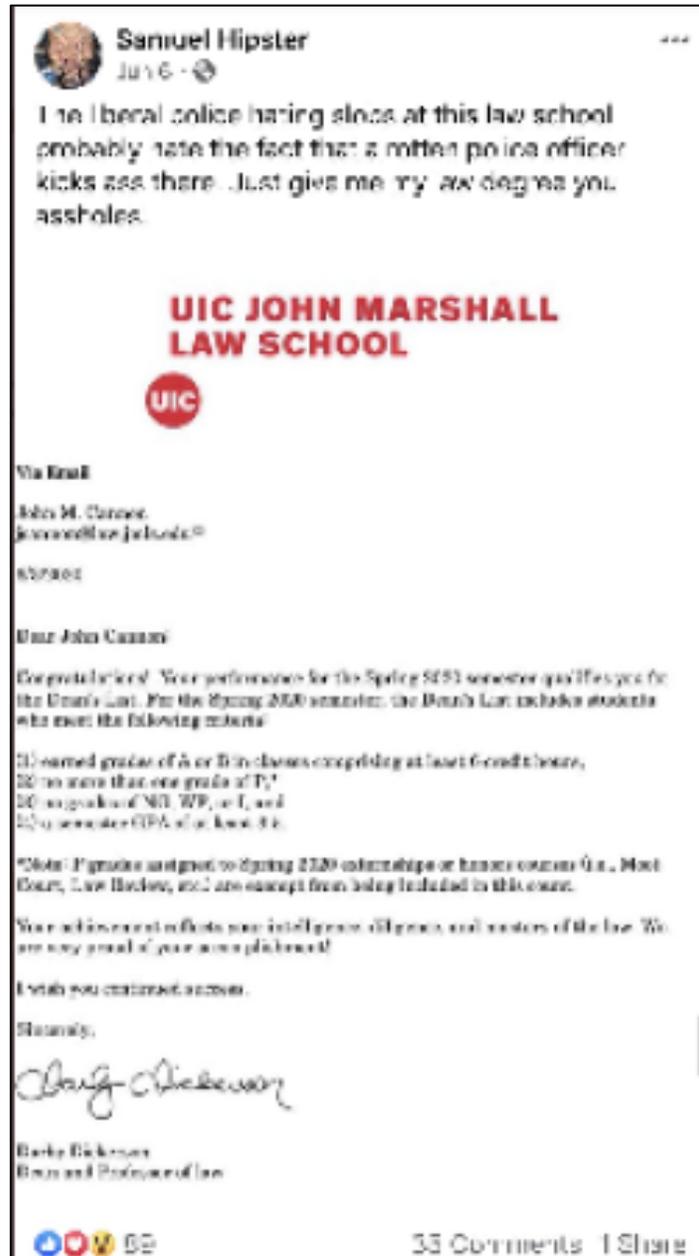


Figure 3

Even if there were no open connection to Lt. Cannon’s identity within his account, the Department could still discipline him for his speech. The Second Circuit addressed a case where an officer anonymously sent racist and anti-Semitic materials through the mail in response to charities, including a police department, that solicited donations. It was only after this police department investigated using marked envelopes that they discovered the culprit was an officer. The court stated, “Although [the officer] tried to conceal his identity as speaker, he took the risk that the effort would fail,” and held:

Given the nature of [the officer's] statements and their very high capacity to inflict serious harm on the employer's mission if it were discovered that they came from a police officer, the fact that [the officer] acted anonymously, at home, and on his own time does not alter the ultimate conclusion that the Department was entitled to dismiss him because of the harm to the Department that his statements risked to inflict.<sup>57</sup>

For the same reasons, the Department can discipline Lt. Cannon for his speech. He too thought he was private and concealing his identity. But his account was not private or anonymous, as Mr. [REDACTED] and [REDACTED] were able to access the account and make the connection to Lt. Cannon.

**d. The preponderance of the evidence establishes that Lt. Cannon made all of the posts in question.**

Lt. Cannon suggested at times that someone had "hacked" his account. However, he conceded that by "hack" he meant that someone accessed his social media without permission,<sup>58</sup> and he did not provide any evidence that someone had improperly accessed his account to post materials. Moreover, he indicated that he continually used his account, and he never noticed someone else using the account. For the most part, Lt. Cannon admitted that he posted the materials at issue. For a few posts, he stated that the post did not look familiar to him, but he admitted that he might have posted it. For each of these posts, he also had an explanation for the meaning of the post, indicating that he did in fact post it, despite not recalling it at the time of his interview. Therefore, the preponderance of the evidence is that Lt. Cannon posted the content supporting the allegations herein.

**e. Allegations against Lt. Cannon**

COPA finds most of the 19 allegations against Lt. Cannon are **Sustained**. The Samuel Hipster account included a pattern of posts that were disparaging towards a wide array of protected classes, including vitriolic posts that implied Muslims are unfit to be included in society, posts that were derogatory towards racial minorities, and posts that emphasized a worldview of whites versus all other race groups. Even where the posts did address interests of public concern, that interest is greatly outweighed by the Department's interest its public mission to protect and serve all people equally.

The allegations, screenshots that informed the allegations,<sup>59</sup> Lt. Cannon's respective responses, and COPA's respective findings are as follows:

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<sup>57</sup> Pappas, 290 F.3d at 148, 150.

<sup>58</sup> Att. 23, P. 63, ln 10-14.

<sup>59</sup> Att. 7. Note these screenshots were obtained via Page Vault by a COPA Digital Forensic Analyst. The Twitter user [REDACTED] has since been deactivated.

1. It is alleged that on or about June 25, 2020, Lieutenant John Cannon posted a statement on Facebook that was disrespectful to CPD, in that he posted an image of a man in a Blue Lives Matter hat holding multiple boots in his arms, with the text, “How do I lick all these boots (sic.)”



Lt. Cannon’s response to Allegation 1 was: “The Facebook page was registered in the name Sam Hipster, not Lieutenant John Cannon so I would have to deny that aspect of the allegation. This was done to disassociate myself from the Chicago Police Department and maintain anonymity. This particular post does not look familiar to me. I do not recall seeing it previous to this matter. I just don’t recall that post.”<sup>60</sup>

COPA finds that there is insufficient evidence to establish that Lt. Cannon posted this photo. Unlike all other posts in question, he did not concede in his interview that he might have posted it, despite not remembering it. Moreover, it is the only post that does not have the Samuel Hipster icon above it. Finally, the post extracted from Twitter seems to indicate that it was [REDACTED] concluding his Twitter thread with an insult towards the Department and its supporters, as opposed to all the prior tweets that indicated the post was from Lt. Cannon. Therefore, the evidence is clear and convincing that Lt. Cannon did not post this image, and Allegation 1 is **unfounded**.

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<sup>60</sup> Att. 23, pg. 20, lines 14-21.

2. It is alleged that on or about June 25, 2020, Lieutenant John Cannon reposted a statement on Facebook that was biased against African Americans and Muslims, in that it depicted a picture of President Obama wearing a turban with the text “Obama is ISIS.”



Lt. Cannon denied the allegation and stated that the post does not “make any reference to African Americans or Muslims.” He insisted the allegation misconstrued the meaning of the post but provided no explanation of what he believed the post meant. Lt. Cannon also avoided saying that it was a picture of President Obama, instead saying the “caricature” does look like the former

President. Finally, Lt. Cannon explained that an expression about a former president is a matter of public importance and public concern, as is ISIS, which he said was “a recognized terrorist organization that was highly antithetical to this country.”<sup>61</sup>

COPA finds that the post does violate Departmental rules.<sup>62</sup> The photo equates President Obama with ISIS, seemingly based on the reasons in the caption, which list the times that President Obama expressed support for American Muslims. The obvious meaning of this post is to conflate Muslims with ISIS, which when applied to Muslims constitutes a racial epithet.<sup>63</sup> Moreover, the attempts to paint President Obama as a Muslim were tied to the fact that he was a black man with a Kenyan father,<sup>64</sup> so the post also disparages African Americans. Therefore, this post violates the Use of Social Media policy as well as Rules 2, 3, 6, and 8.

COPA recognizes that the post touches on a matter of public concern,<sup>65</sup> as it addresses the former President’s policies. The inappropriate or controversial character of the statement is irrelevant to the question of whether it deals with a matter of public concern.<sup>66</sup>

However, COPA finds that the Department’s interests in promoting public service outweigh Lt. Cannon’s interest in commenting in this manner, and equating Muslims with terrorists. With the expressed viewpoints, Muslims and African Americans could reasonably perceive that they would not receive fair and equitable treatment from Lt. Cannon. As such, the preponderance of the evidence establishes that the Department’s interests outweigh Lt. Cannon’s, and COPA finds Allegation 2 is **Sustained**.

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<sup>61</sup> Att. 23, pg. 21, lines 15-24 and pg. 22 lines 1-14.

<sup>62</sup> The photo is President Obama and the post says the name OBAMA over a dozen times. Lt. Cannon’s claim that it is a “caricature” that looks like President Obama is not credible.

<sup>63</sup> See *United States v. Felix*, 2019 CCA LEXIS 258, at \*20.

<sup>64</sup> See, e.g. Dyson, Michael Eric, *Whose President Was He?*, (POLITICO, January/February 2016) available at <https://www.politico.com/magazine/story/2016/01/barack-obama-race-relations-213493/> (discussing the underlying racism in labeling President Obama a Muslim).

<sup>65</sup> Lt. Cannon repeatedly stressed that his statements were jokes, meant for a private audience. Based on these assertions, his posts arguably do not meet the “public concern” threshold. See *Tindle* 56 F.3d at 970 (holding that conduct meant to amuse at a private party with no intended message is not speech on a matter of public concern).

<sup>66</sup> See *Rankin v. McPherson*, 483 U.S. 378, 387 (1987) (holding that an officer’s comment that if assassins attempted to kill President Reagan she hoped they got him, was speech on a matter of public concern).

- 3. It is alleged that on or about June 25, 2020, Lieutenant John Cannon posted a statement on Facebook that was biased against African Americans, in that it responded to an academic paper in support of the Black Lives Matter movement by stating, “The factionalized element in charge of higher education, is dangerous to the Sovereign. Truly an enemy fo the State (sic).”



Lt. Cannon denied the allegation. He said his post was not a response to an academic paper but an email from John Marshall Law School stating the school’s position towards the Black Lives Matter movement. Lt. Cannon pointed out that the post never mentions African Americans, and he claimed it was intended to be critical from a legal academic perspective. According to Lt. Cannon, the post is a reference to James Madison’s Federalist 10 Papers, regarding the danger

presented to the sovereign when factions become too powerful and imbedded in the American fabric.<sup>67</sup>

COPA finds that there is insufficient evidence to determine that the post violates Departmental rules. The post is certainly troubling in that it appears to label Black Lives Matter, an organization whose purpose is to build power for African American communities to combat excessive force by the police,<sup>68</sup> as an “enemy of the state,” which would be disparaging towards African Americans.<sup>69</sup> However, the language used in the post is ambiguous, and it is unclear what Lt. Cannon is attempting to express with this post. There is not a preponderance of the evidence that he is disparaging Black Lives Matter and African Americans, as opposed to articulating his disagreement with and lawsuit against John Marshall Law School. Because of this uncertainty, COPA cannot find, by a preponderance of the evidence, that the post violates Department rules. For these reasons, Allegation 3 is **Not Sustained**.<sup>70</sup>

- 4. It is alleged that on or about June 13, 2020, Lieutenant John Cannon reposted a statement on Facebook that was biased against African Americans and Asians, in that it depicted a white child with the words “asking her to apologize**

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<sup>67</sup> Att. 23, pg. 25, lines 17-24 and pg. 26, lines 1-14.

<sup>68</sup> See [https://blacklivesmatter.com/about/?\\_\\_cf\\_chl\\_jschl\\_tk\\_\\_=pmd\\_pl5QpBkZE6bKzvK\\_Gd52lxacUQi58wvDWUr3wRIvJvw-1631565285-0-gqNtZGzNAhCjenBszQi9](https://blacklivesmatter.com/about/?__cf_chl_jschl_tk__=pmd_pl5QpBkZE6bKzvK_Gd52lxacUQi58wvDWUr3wRIvJvw-1631565285-0-gqNtZGzNAhCjenBszQi9) (Black Lives Matter’s “mission is to eradicate white supremacy and build local power to intervene in violence inflicted on Black communities by the state and vigilantes. By combating and countering acts of violence, creating space for Black imagination and innovation, and centering Black joy, we are winning immediate improvements in our lives.”)

<sup>69</sup> If there were sufficient evidence to determine that Lt. Cannon was calling Black Lives Matter an enemy of the state, the post would violate Department rules and would not be protected speech, as African Americans could reasonably perceive they would not be treated with fairness by Lt. Cannon. Additionally, it would compromise order and discipline in the Department if Lt. Cannon disparaged an organization whose purpose is consistent with Department policy. See e.g., G03-02, Use of Force, Section II, A&B (eff. Feb 29, 2020) (stating the Departmental goals of developing policies and procedure that protect the sanctity of human life and strive to create community partnerships).

<sup>70</sup> COPA also notes that Lt. Cannon’s references to the “Sovereign” and “factions” in higher education touch upon White Supremacist talking points. See, e.g., *Sovereign Citizens Movement*, SOUTHERN POVERTY LAW CENTER, available at <https://www.splcenter.org/fighting-hate/extremist-files/ideology/sovereign-citizens-movement> (noting the extremist views of the Sovereign Citizen Movement); *Extremist Tactics on Campus*, ANTI-DEFAMATION LEAGUE, April 2018, available at <https://www.adl.org/media/11141/download> (discussing the extremist tactic of “fearmongering” at schools to stoke anxiety). However, there is also insufficient evidence that Lt. Cannon was referencing these talking points in his post.

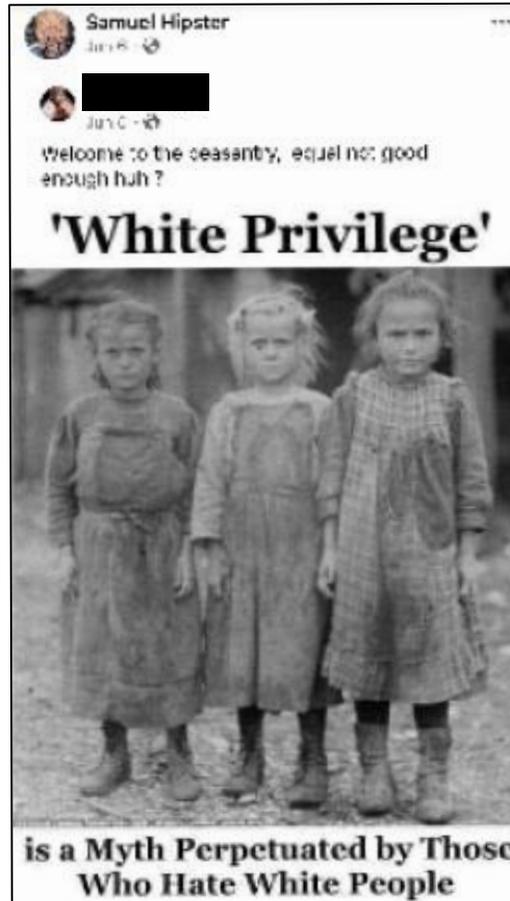
for slavery” and an Asian child with the words “is like asking her to apologize for Pearl Harbor.”



Lt. Cannon denied the allegation. He stated that his post does not express negative animus towards African Americans or Asian Americans. Instead, he asserted it is a post critical of slavery. COPA, however, finds the post does violate Departmental rules as it is derogatory towards African-Americans by minimizing the impact of slavery. The post thereby discredits the Department’s mission of building community support among all of Chicago’s residents. Moreover, it reflects negatively on the Department and its mission that Lt. Cannon, a high-ranking supervisor, uses such divisive imagery in a public manner. Therefore, this post violates Rules 2, 3, 6, 8, and the Department’s Use of Social Media policy.

The post does touch on a matter of public concern, as it seemingly discusses slavery and/or reparations. However, COPA finds that the Department’s interests in promoting public service and discipline outweigh Lt. Cannon’s interest in commenting in this manner. African Americans could reasonably perceive that they would not receive fair and equitable treatment from Lt. Cannon based on his post. Moreover, Lt. Cannon is a supervisor, tasked with ensuring that his subordinates follow Department policy. By espousing a stance of white people against all other groups, he compromises the order and discipline necessary to implement Department policies within his unit. As such, the preponderance of the evidence establishes that the Department’s interests outweigh Lt. Cannon’s, and COPA finds Allegation 4 is **Sustained**.

5. It is alleged that on or about June 8, 2020, Lieutenant John Cannon reposted a statement on Facebook that was biased against African Americans, by stating, “Welcome to peasantry, equal not good enough huh?” and “White privilege is a myth perpetuated by those who hate white people (sic).”

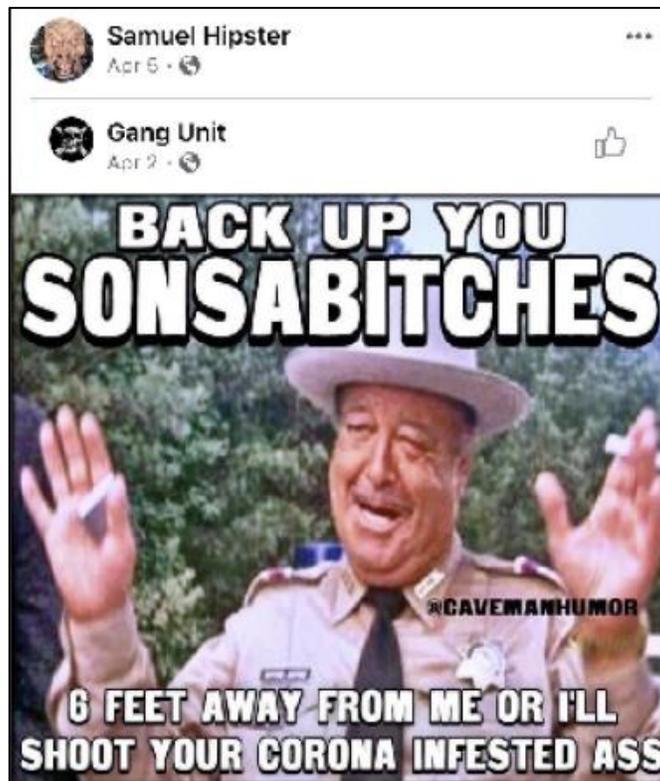


Lt. Cannon denied the allegation. He insisted his post is not objectively offensive and not biased against African Americans, because it does not reference them. Lt. Cannon further asserted that the allegation is based on a “subjective” point of view. He said the post speaks in general terms about poverty, equality, and hate, which are all matters of public interest and public concern.

COPA finds that the post does violate Departmental rules. The post clearly targets non-white people with a degrading tone, saying “welcome to peasantry, equal not good enough for you?,” before remarking that white privilege is perpetuated by those who hate white people. Thus, contrary to Lt. Cannon’s assertion, the post does not speak of equality; it pits white people against non-white people. It violates and undermines the Department’s Human Rights policy requiring fair and equal treatment. For these reasons, COPA finds Lt. Cannon’s post is disparaging to African Americans and other racial groups, and it undermines the Department’s mission, values, and goals, violating the Use of Social Media policy as well as Rules 2, 3, 6, and 8.

The post does touch on a matter of public concern, as it is a commentary on social equity issues. However, COPA finds that the Department's interests in promoting public service outweigh Lt. Cannon's interest in commenting in this manner. With this viewpoint, African Americans and other racial groups could reasonably perceive that they would not receive fair and equitable treatment from Lt. Cannon. Moreover, Lt. Cannon is a supervisor, tasked with ensuring that his subordinates follow Department policy. By espousing a stance of white people against all other groups, he compromises the order and discipline necessary to implement Department policies within his unit. As such, the preponderance of the evidence establishes that the Department's interests outweigh Lt. Cannon's, and COPA finds Allegation 5 is **Sustained**.

6. It is alleged that on or about April 5, 2020, Lieutenant John Cannon reposted a statement on Facebook that was offensive toward members of the public, in that it depicted a man in a Sheriff uniform with the text "back up ya sonsofbitches 6 feet away from me or I'll shoot your corona infested asses."



Lt. Cannon denied the allegation. He stated his post is merely satire based on Smokey and the Bandit. COPA, however, finds that the post does violate Departmental rules. The Department has strict rules on the use of deadly force. Certainly, shooting someone with Covid for approaching too closely is not a permissible use of deadly force. The post also labels people who have Covid as "infested," which is highly disparaging. Moreover, Lt. Cannon posted this image at the beginning of the Covid-19 pandemic, when the Department was attempting to implement policies

to deal with the virus and continue providing services.<sup>71</sup> This post ignores the serious nature of the virus and how it might affect police services, and it is wholly flippant about the use of deadly force. For these reasons, COPA finds the post undermines the Department's mission, values, and goals, violating the Use of Social Media policy as well as Rules 2, 3, 6, and 8.

The post does touch on a matter of public concern, as it is a commentary on the pandemic. However, COPA finds the Department's interests in promoting public service outweigh Lt. Cannon's interest in commenting in this manner. The post discredits the serious nature of the virus and calls into question whether people suffering from the virus can count on Department members to provide them services. It also makes a joke out of the very serious matter of officers using deadly force. Lt. Cannon is a supervisor, tasked with ensuring that his subordinates follow Department policy. By espousing these views he compromises the order and discipline necessary to implement Department policies within his unit. As such, the preponderance of the evidence establishes that the Department's interests outweigh Lt. Cannon's, and COPA finds Allegation 6 is **Sustained**.

7. It is alleged that on or about February 9, 2020, Lieutenant John Cannon reposted a statement on Facebook that was biased against homosexuals and firemen, in that it depicted four naked men in bed together with the text "meanwhile at the firehouse..."



Lt. Cannon denied the allegation. He said that his post makes no reference to homosexuals, nor is it obscene. He also stated the post is "being jestful [and] is simply indicative of the

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<sup>71</sup> See *Chicago Police Are Reducing Stops During COVID-19. Activists Want Even Fewer*, NPR, Mar. 25, 2020, available at <https://www.npr.org/local/309/2020/03/25/821358187/chicago-police-are-reducing-stops-during-c-o-v-i-d-19-activists-want-even-fewer>. (discussing the tension between CPD attempts to limit police/civilian contact and activists' push for even less interaction); see also *Chicago Police Department reports 112 cases total of COVID-19*, SUN-TIMES WIRE, Apr. 7, 2020 (discussing the growing number of positive Covid tests among CPD officers in the week that Lt. Cannon made this post).

longstanding and friendly rivalry between firefighters and police officers, and is often manifested through humor and poking fun.”<sup>72</sup>

COPA finds that the post does violate Departmental rules. COPA finds Lt. Cannon’s “manifestation of humor and poking fun” to be objectively offensive, disrespectful, and immature, bringing discredit to and reflecting poorly upon the Department. Whether there is the explicit use of the word “homosexual” or reference to homosexuality is not required to find this post to be offensive toward homosexuals. The implications of the photo, four shirtless men in bed together embracing and smiling, is an objective reference to homosexuality. If this is not a reference to homosexuality, as Lt. Cannon claimed, COPA questions what makes this photo of four shirtless men embracing in bed together a “manifestation of humor and poking fun?” Therefore, COPA finds this post is disparaging based on sexual orientation, and it undermines the Department’s mission, values, and goals, violating the Use of Social Media policy as well as Rules 2, 3, 6, and 8.

The post does not touch on a matter of public concern. At most, Lt. Cannon attempted to claim it is of public concern because of a longstanding rivalry between police and firefighters. However, Lt. Cannon also distanced himself from being a police officer, so the post is not a reference to any “rivalry,” but an insult towards firefighters. Even if Lt. Cannon’s police identity were more apparent, juvenile insults about another profession do not qualify as speech on a matter of public concern.<sup>73</sup>

However, even if the post did regard a matter of public concern, the Department’s interests in promoting public service outweigh Lt. Cannon’s interest in commenting in this manner. The post is demeaning towards LGBTQ individuals by treating their sexual orientation as an insult. LGBTQ community members could reasonably perceive that they would not receive fair and equitable treatment from Lt. Cannon based on this view. As a result, the preponderance of the evidence establishes that the Department’s interests outweigh Lt. Cannon’s, and COPA finds Allegation 7 is **Sustained**.

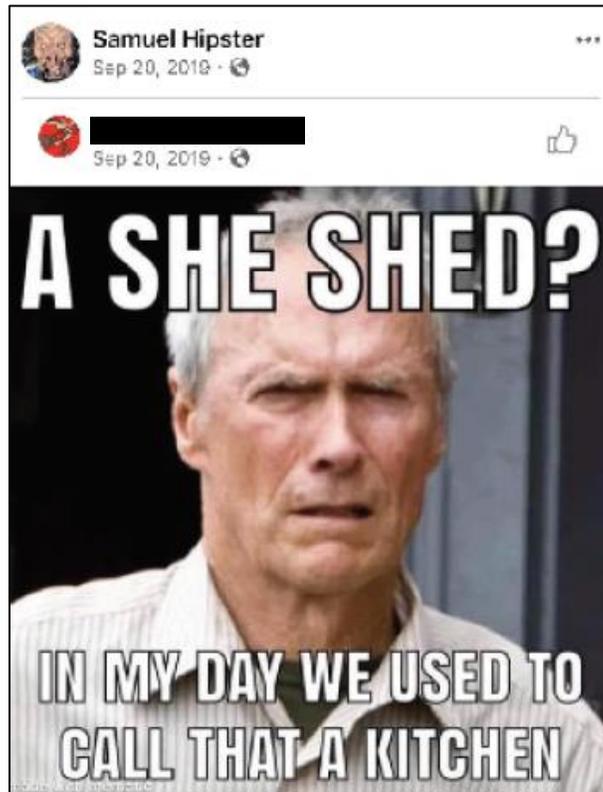
**8. It is alleged that on or about September 9, 2019, Lieutenant John Cannon reposted a statement on Facebook that was biased against women, in that it**

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<sup>72</sup> Att. 23, pg. 31, lines 7-10. It is inconsistent for Lt. Cannon to both state that Samuel Hipster is meant to distance himself from CPD and also make posts that imply a rivalry between CPD and firefighters.

<sup>73</sup> See, *Lumpkin v. Aransas County*, 712 Fed.Appx.350, 357 (5th Cir. 2017) (holding that insults are not matters of public concern); *Lalowski v. City of Des Plaines*, 2012 U.S.Dist. LEXIS 149565 (N.D. ILL, Oct. 18, 2012) (holding that portions of a police officer’s speech which were insulting were not matters of public concern).

depicted an image of Clint Eastwood with the text, “A she-shed? In my day we called that a kitchen,” written below.



Lt. Cannon denied the allegation. He stated that his post is a jestful spinoff of a tv commercial, and is not objectively biased against women. The post was intended to be a private joke between himself and his wife, and she was not offended.<sup>74</sup> Lt. Cannon claimed that the inclusion of Clint Eastwood illustrates the fictional aspect of the post.

COPA finds that the post does violate Departmental rules. COPA finds Lt. Cannon's joke to be objectively offensive, disrespectful, and immature, bringing discredit to and reflecting poorly upon the Department. A “she-shed” (a twist on the term “man cave”) is commonly known to define a female-only space in the home. To suggest that a “she-shed” is similar to the kitchen is a colloquial reference to sexist beliefs that women “belong in the kitchen” rather than work outside the home. Therefore, this post is disparaging to women and violates the Use of Social Media policy, as well as Rules 2, 3, 6, and 8.

COPA notes that the post barely touches on a matter of public concern. Notably, Lt. Cannon said the purpose of the post was an inside joke with his wife, which is not treated as a matter of public concern. Moreover, the post is primarily a derogatory insult towards women, not speech on a matter of public concern. However, since it is conceivable this post could be construed

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<sup>74</sup> Once again, there is inconsistency with Lt. Cannon's account supposedly being unaffiliated with him, and yet being used to make personalized jokes. Moreover, whether his wife was offended is irrelevant as speech must be evaluated based on objective standards for the community.

as a discussion of gender roles (even though Lt. Cannon did not claim that was his intent), COPA will treat it as a matter of public concern for this analysis.

Even if the post did regard a matter of public concern, the Department's interests in promoting public service outweigh Lt. Cannon's interest in commenting in this manner. Lt. Cannon is a supervisor with dozens of women under his command. This post sends the message to those women (and to their male colleagues) that they belong in the kitchen, not on the police force. This attitude largely undermines the order and functioning of the police force. Moreover, women in the community could reasonably perceive that they would not receive fair and equitable treatment from Lt. Cannon based on this post. As a result, the preponderance of the evidence establishes that the Department's interests outweigh Lt. Cannon's, and COPA finds Allegation 8 is **Sustained**.

9. It is alleged that on or about August 4, 2019, Lieutenant John Cannon reposted a statement on Facebook that was biased against African Americans, in that he reposted a side-by-side image of Roseanne Barr and Jussie Smollett with the text, "Racism in 2019: Fired after a bad joke (above Roseanne Barr), Working after an EVIL joke (above Jussie Smollett)."



Lt. Cannon denied the allegation. He stated his post is not objectively biased towards African Americans, but “draws a comparative relationship between two highly-publicized occurrences around the same time and the disparity of how each situation was being handled. It also directly illustrates that racism in all forms is disgusting and an equal recognition of that may be more appropriate.”<sup>75</sup>

COPA finds that the post does violate Departmental rules. Lt. Cannon’s post characterizes the Tweet that got Roseanne Barr fired as merely a “bad joke.” The Tweet in question contained a photo of Valerie Jarrett, an African-American adviser to Barack Obama, with the caption “Muslim brotherhood & planet of the apes had baby.”<sup>76</sup> This “joke” was highly derogatory towards African Americans, and it is consistent with the other racist posts made by Lt. Cannon on the Samuel Hipster account. Moreover, comparing the white Barr with the African American Jussie Smollett, who allegedly staged a hate crime assault, is yet another example of Lt. Cannon pitting white people against other racial groups. Therefore, this post is disparaging to African Americans and violates the Use of Social Media policy, as well as Rules 2, 3, 6, and 8.

COPA recognizes that this post touches on a matter of public concern. It discusses the firing of a public figure for her racist posts, as well as the legal case against Smollett, both of whom continue to be discussed in the news.

However, the Department’s interests in promoting public service outweigh Lt. Cannon’s interest in commenting in this manner. With this viewpoint, African Americans could reasonably perceive that they would not receive fair and equitable treatment from Lt. Cannon. Moreover, Lt. Cannon is a supervisor, tasked with ensuring that his subordinates follow Department policy. As a result, the preponderance of the evidence establishes that the Department’s interests outweigh Lt. Cannon’s interests, and COPA finds Allegation 9 is **Sustained**.

**10. It is alleged that on or about May 18, 2019, Lt. Cannon reposted a statement on Facebook that was biased against African Americans and other minority groups, by stating, “Let me get this straight...the Democratic candidate want to win back the vote of working class men and women by promising to take back our tax cut, open our borders, give reparations to people my great great**

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<sup>75</sup> Att. 23, pg. 33, lines 12-24 and p. 34, lines 1-13.

<sup>76</sup> See John Koblin, *After Racist Tweet, Roseanne Barr’s Show is Canceled by ABC*, N.Y. TIMES, May 29, 2019, available at <https://www.nytimes.com/2018/05/29/business/media/roseanne-barr-offensive-tweets.html>

**grandpa never harmed and use my taxes to pay off the debt of college kids who look down upon me as being 'white privileged,' got it."**



Lt. Cannon's response to Allegation 10 was: "The Facebook page was registered in the name Sam Hipster, not with Lieutenant John Cannon. This was done to disassociate myself from the Chicago Police Department and maintain anonymity. The post does not look familiar to me. I do not recall seeing it prior to this matter. However, I may have shared it on my Facebook page although I don't have a specific recollection of that. The post is not objectively biased against African Americans. This particular allegation is highly suggestive to the reader and it is highly subjective on one particular point of view and a misconstrued meaning. The accuser specifically alleges bias against African Americans and other minority groups. The suggestive manner of this is absurd. Holding a bias against any group on a protected class is wrong, but deliberately crafting the allegation in this manner, cherry-picking African Americans and bunching anyone else into a

common category drums up the type of anger and vitriol that suggests to any reader that the allegation -- of this allegation that the expression contains the worst kind of bias. The expression -- I'm just going to move through this. We've covered much of it. The expression can -- mentions a democratic candidate, working class men and women, taxes, borders, previous generations of Americans, taxes again, matters of public perception. It does not mention African Americans or minority groups. It was made specifically on a matter of public interest and public concern. As such, I reject the allegation. I deny."<sup>77</sup>

COPA finds that the post does violate Departmental rules. Lt. Cannon's targeting of Democratic candidates, and the post's references to reparations (for Black Americans, a matter of current public debate), borders (immigration, also a matter of current public debate), and "white privilege" (also a matter of current public debate), are yet more examples of Lt. Cannon's biases. The post's meaning and intent, when taken in context with the other 18 allegations, is clear and unambiguous. The post is disparaging to African Americans, Hispanics, immigrants, and other minority groups. It violates the Use of Social Media policy, as well as Rules 2, 3, 6, and 8.

COPA finds the Department's interests in promoting public service outweigh Lt. Cannon's interest in commenting in this manner. Based on this post, African Americans, Hispanics, and other minority groups could reasonably perceive that they would not receive fair and equitable treatment from Lt. Cannon. Moreover, Lt. Cannon is a supervisor, tasked with ensuring that his subordinates follow Department policy. As a result, the preponderance of the evidence establishes that the Department's interests outweigh Lt. Cannon's interests, and COPA finds Allegation 9 is **Sustained**.

- 11. It is alleged that on or about April 27, 2019, Lieutenant John Cannon reposted a statement on Facebook that was biased against Muslims and women, in that it depicted photos of Ilhan Omar, Alexandria Ocasio-Cortez, Ayanna Pressley, and Rashida Tlaib with the text, "We're new, bold, and we hate you too," and**

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<sup>77</sup> Att. 23, pg. 35, lines 3-24 and pg. 36, lines 1-11.

the response, “The party of freaks, antisemitics, racist, DANGEROUS. The new KKK wing of the party (sic).”



Lt. Cannon denied the allegation. He said that his post does not express negative animus towards Muslims or women. Instead, it is a commentary on well-known politicians who share a common ideology. Lt. Cannon claimed his post “is highly critical of anti-Semites and racists making comparisons to other hate groups and likewise disgusting ideologies as being [a] dangerous, highly-debatable proposition.”<sup>78</sup>

COPA finds that the post violates Departmental rules and is derogatory towards a number of protective classes. It is derogatory towards women, as it labels prominent female politicians as “freaks.” It is derogatory towards Muslims, as it suggests that Muslim politicians are anti-Semites who are attempting to push Sharia law. Moreover, it reflects negatively on the Department and its mission that Lt. Cannon, a high-ranking supervisor, uses such divisive language in a public forum. Therefore, this post violates the Use of Social Media policy and Rules 2, 3, 6, and 8.

<sup>78</sup> Att. 23, pg. 37, lines 14-17.

The post does touch on matters of public concern, as it discusses politicians and political ideologies and beliefs. However, COPA finds the Department's interests in promoting public service and Departmental discipline outweigh Lt. Cannon's interest in commenting in this manner. Lt. Cannon is a supervisor, tasked with ensuring that his subordinates follow Department policy. By espousing such vitriol towards women and Muslims, he compromises the order and discipline necessary to implement Department policies within his unit. As such, the preponderance of the evidence establishes that the Department's interests outweigh Lt. Cannon's, and COPA finds Allegation 11 is **Sustained**.

- 12. It is alleged that on or about April 16, 2019, Lieutenant John Cannon reposted a statement on Facebook that was biased against Muslims, which depicts a cartoon wooden horse being pulled through a door. The text "America" is written at the door and people appearing to stand with their hands up blocking the horse. The person dragging the horse is depicted with the word "democrat" and the horse has the words "Ilhan Omar" and Sharia Law" written on it.**



Lt. Cannon denied the allegation, insisting that his post is not objectively biased against Muslims. He stated the post is a matter of public interest because it references a "highly-controversial elected politician" and the "deceptive motives" of the Democratic Party.<sup>79</sup>

COPA finds that the post does violate Departmental rules, and is highly derogatory towards Muslims. Lt. Cannon explained that the Trojan horse is meant to depict "deceptive practices," thus stating that Ilhan Omar, a Muslim, is actually a deception by the Democrats to sneak Sharia Law into America. This post (especially in conjunction with the post under Allegation 14) demonstrates Lt. Cannon's belief that Muslims are unfit to serve in American government. It is disparaging to Muslims and violates the Use of Social Media policy, as well as Rules 2, 3, 6, and 8.

<sup>79</sup> Att. 23, pg. 38, lines 10-24 and pg. 39, lines 1-7.

The post touches on a matter of public concern, as it discusses Lt. Cannon's stance on a national elected official. However, COPA finds the Department's interests in promoting public service outweigh Lt. Cannon's interest in commenting in this manner. This post espouses Lt. Cannon's disregard for Muslim Americans, and all Muslim citizens could reasonably perceive they would not receive fair and equitable treatment from Lt. Cannon based on this view. Moreover, Lt. Cannon cannot fairly supervise the Muslim officers in his unit if he demonstrates a belief that they are un-American and part of a "deceptive practice" to carry out Sharia Law. As such, the preponderance of the evidence establishes that the Department's interests outweigh Lt. Cannon's, and COPA finds Allegation 12 is **Sustained**.

- 13. It is alleged that on or about March 15, 2019, Lieutenant John Cannon reposted a statement on Facebook that was biased against Muslims, in that he reposted an image with the text, "I don't feel safe wearing my headscarf in Trump's America," and the response, "Really? Try being a white catholic kid in a MAGA hat."**

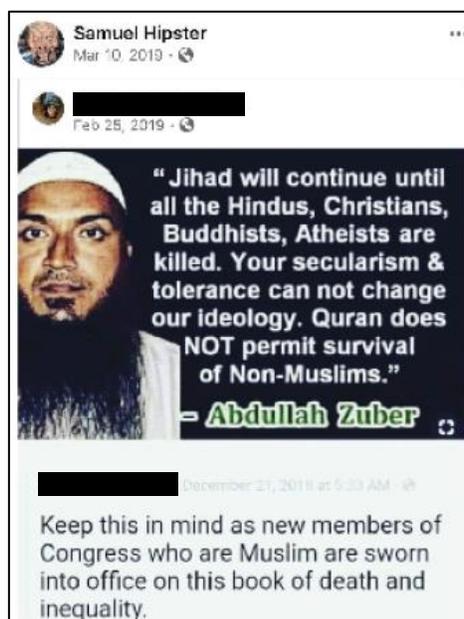


Lt. Cannon denied the allegation. He stated his post is not biased against Muslims, and it is intended to express the disparity in the way different races and religions are perceived and treated. COPA, however, finds that the post does violate Departmental rules. It is derogatory towards Muslims, and it diminishes the very serious threat of anti-Muslim hate crimes.<sup>80</sup> Therefore, this post violates the Use of Social Media policy, as well as Rules 2, 3, 6, and 8.

<sup>80</sup> See FY2019 Hate Crimes Statistics Report, available at <https://www.justice.gov/crs/highlights/FY-2019-Hate-Crimes> (stating anti-Muslim hate crimes were the second highest category after anti-Semitic crimes).

The post touches on a matter of public concern, as it discusses Lt. Cannon's stance on the treatment of race and religion. However, the Department's interests in promoting public service outweigh Lt. Cannon's interest in commenting in this manner. This post espouses Lt. Cannon's overwhelming disregard for Muslim Americans. Any Muslim citizen who has experienced discrimination, especially based on their cultural dress, could reasonably perceive that they would not receive fair and equal treatment from Lt. Cannon due to his disregard for Muslim victimization as espoused in this post. Similarly, Muslim officers supervised by Lt. Cannon could not expect fair treatment from him. As such, the preponderance of the evidence establishes that the Department's interests outweigh Lt. Cannon's, and COPA finds Allegation 12 is **Sustained**.

- 14. It is alleged on that or about March 10, 2019, Lieutenant John Cannon reposted a statement on Facebook that was biased against Muslims, which depicts the image of Abdullah Zuber and states, "Jihad will continue until all the Hindus, Christians, Buddhists, Atheists are killed. Your secularism & tolerance can not change our ideology. Quran does NOT permit survival of non-Muslims (sic)." The text below advises, "Keep this in mind as new members of Congress who are Muslim are sworn into office on this book of death and inequality (sic)."**



Lt. Cannon denied the allegation. He said that his post is not objectively biased against Muslims, but is critical of "hate and violence directed at people of different religions and hate expressed towards those religious beliefs by an individual who espouses an alternative belief. The expression also warns against hate being brought into Congress."<sup>81</sup> COPA, however, finds that the post does violate Departmental rules. It is highly derogatory towards Muslims. Lt. Cannon used an extremist's quote to suggest that all Muslims follow the same belief and will bring those beliefs to Congress. This post (especially in conjunction with the post under Allegation 12) demonstrates

<sup>81</sup> Att. 23, pg. 41, lines 4-24.

Lt. Cannon's belief that Muslims are unfit to serve in U.S. government. Therefore, the post is disparaging to Muslims and violates the Use of Social Media policy, as well as Rules 2, 3, 6, and 8.

The post touches on a matter of public concern, as it discusses Lt. Cannon's stance on elected officials. However, COPA finds that the Department's interests in promoting public service outweigh Lt. Cannon's interest in commenting in this manner. This post espouses Lt. Cannon's disregard for Muslim Americans, and all Muslim citizens could reasonably perceive they would not receive fair and equitable treatment from Lt. Cannon based on this view. Moreover, Lt. Cannon cannot fairly supervise the Muslim officers in his unit if he demonstrates a belief that they are un-American and follow a "book of death." As such, the preponderance of the evidence establishes that the Department's interests outweigh Lt. Cannon's, and COPA finds Allegation 14 is **Sustained**.

- 15. It is alleged that on or about January 28, 2019, Lieutenant John Cannon reposted a statement on Facebook that was biased against members of the LGBTQ community, in that he reported side-by-side images of a young man in a MAGA hat and a young person in drag with the text, "LIBERAL LOGIC: Kid in MAGA hat, offensive. Kid in drag, BRAVE!"**



Lt. Cannon denied the allegation. He said that his post is not objectively biased against LGBTQ people and is meant to express the disparity in treatment between people expressing their First Amendment rights. COPA, however, finds that the post does violate Departmental rules. It is derogatory towards LGBTQ community as it mocks those who dress in drag. Lt. Cannon's post suggests he finds non-gender conforming individuals to be offensive. Therefore, this post is disparaging to the LGBTQ community and violates the Use of Social Media policy, as well as Rules 2, 3, 6, and 8.

The post touches on a matter of public concern as it discusses Lt. Cannon's stance on the treatment of race and religion. However, COPA finds that the Department's interests in promoting public service outweigh Lt. Cannon's interest in commenting in this manner. This post espouses Lt. Cannon's disregard for LGBTQ issues, and any LGBTQ officers supervised by Lt. Cannon could not expect fair treatment from him. As a result, the preponderance of the evidence establishes that the department's interests outweigh Lt. Cannon's, and COPA finds Allegation 15 is **Sustained**.

16. It is alleged that on or about January 8, 2019, Lieutenant John Cannon reposted a statement on Facebook that was biased against Hispanic people and immigrants, in that he reposted an image of soldiers with the text, "Democrats will stop these people's paychecks," and an image of Hispanic people with the text, "To protect illegal people like this. Let that sink in."



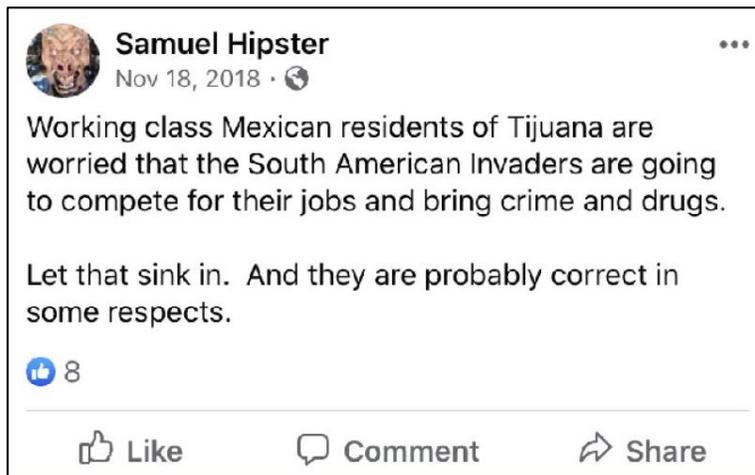
Lt. Cannon denied the allegation, and denied that his post is objectively biased towards Hispanic people or immigrants. Instead, he maintained it is "a commentary regarding the disparity of treatment by politicians between U.S. service members and others who express extreme disdain for the U.S. because they are giving the middle finger which commonly means "F. you.""<sup>82</sup>

<sup>82</sup> Att. 23, pg. 43, lines 22-24 and pg. 44, lines 1-21.

COPA finds that the post does violate Departmental rules. It is derogatory towards Hispanics because it superimposes the label “illegal” on a generic photo of Hispanic people. Lt. Cannon exacerbated the derogatory nature of the post during his COPA statement, when he described the woman in the photo, who is giving the middle finger to no one in general, as someone expressing disdain for the U.S. Therefore, this post is disparaging to Hispanics and immigrants and violates the Use of Social Media policy, as well as Rules 2, 3, 6, and 8.

The post does touch on a matter of public concern, as it discusses Lt. Cannon’s stance on immigration and government spending. However, COPA finds that the Department’s interests in promoting public service outweigh Lt. Cannon’s interest in commenting in this manner. Lt. Cannon must protect and serve all residents of Chicago, regardless of their immigration status. Any Hispanics under Lt. Cannon’s supervision could reasonably expect to be treated differently from their peers based on Lt. Cannon’s views expressed in this post. As a result, the preponderance of the evidence establishes that the Department’s interests outweigh Lt. Cannon’s, and COPA finds Allegation 16 is **Sustained**.

- 17. It is alleged that on or about November 18, 2018, Lieutenant John Cannon posted a statement on Facebook that was biased against Hispanic people, by stating, “Working class Mexican residents of Tijuana are worried that the South American invaders are going to compete for their jobs and bring crime and drugs. Let that sink in. And they are probably correct in some respects.”**



Lt. Cannon denied the allegation. He said that his post is not objectively biased towards Hispanic people, as it is meant to “illustrate the fears of Mexican people regarding a flood of South American residents” and their effect on public safety.<sup>83</sup> However, COPA finds that the post does violate Departmental rules. It is derogatory towards Hispanics because it labels South American immigrants as “invaders.” It also suggests that Mexicans, as a group, bring crime, drugs, and job competition to the United States. Therefore, this post is disparaging to Hispanics in several respects and violates the Use of Social Media policy, as well as Rules 2, 3, 6, and 8.

<sup>83</sup> Att. 23, pg. 45, lines 8-24 and pg. 46, lines 1-8.

The post touches on a matter of public concern, as it discusses Lt. Cannon's stance on immigration. However, COPA finds the Department's interests in promoting public service outweigh Lt. Cannon's interest in commenting in this manner. Lt. Cannon's work requires him to protect and serve Hispanics, including South American immigrants. He may also supervise immigrants and others of South American descent. Lt. Cannon's view of this group as "invaders"<sup>84</sup> jeopardizes the Department's goal of building positive relationships with all of Chicago's diverse communities. Lt. Cannon's use of derogatory statements diminishes his interest in commenting on matters of public concern and increases the Department's interest in disciplining him.<sup>85</sup> As a result, the preponderance of the evidence establishes that the Department's interests outweigh Lt. Cannon's, and COPA finds Allegation 17 is **Sustained**.

**18. It is alleged that on or about October 5, 2018, Lieutenant John Cannon posted a statement on Facebook that was disrespectful to CPD, by stating, "Festering maggot filled pool of scum and villany (sic). I will be glad when I can leave."**



Lt. Cannon's response to Allegation 18 was: "The comments are vague and ambiguous and could never be considered disrespectful to CPD or any other identified group, class, agency, or individual. To the contrary, the words are a direct reference that is highly misquoted to a scene in a Star Wars movie."<sup>86</sup>

COPA finds that there is insufficient evidence to determine that the post violates Departmental rules. Lt. Cannon is a supervisor, tasked with exercising discretion and judgment. That he posts comments with such disregard for how the people he is tasked with serving will interpret them, shows he does not possess discipline and reflects negatively on the Department. Moreover, when considered in conjunction with Lt. Cannon's other posts, which express the same vitriol towards a number of protected classes, this post gives the impression that Lt. Cannon is speaking about those groups as well.<sup>87</sup> However, because the post does not target any specific

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<sup>84</sup> Unlike most of the posts in question, Lt. Cannon was not merely sharing a meme; he wrote this message and chose this derogatory word.

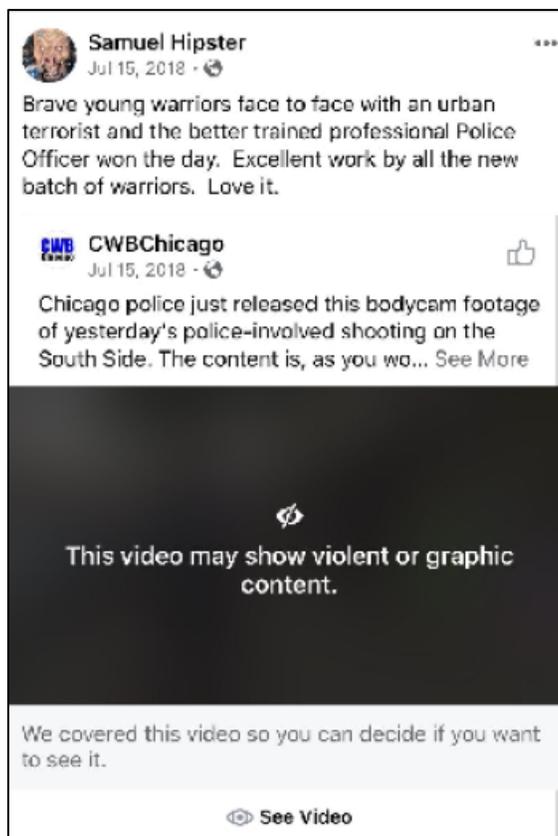
<sup>85</sup> See *Snipes v Volusia County*, 704 Fed. Appx. 848, 854 (11th Cir. 2017) ("Even assuming—we think, rather generously—that Snipes' comments were intended to communicate something of value to the public discourse, there are many ways to communicate ones' thoughts, and the vulgar, derogatory phrases used by Snipes weigh against him.").

<sup>86</sup> Att. 23, pg. 46, lines 15-24 and pg. 47, lines 1-18.

<sup>87</sup> Indeed the Twitter user [REDACTED] interpreted this post to be commentary on the people of Chicago.

group, there is insufficient evidence that it violates Rules 2 and 3, or the Use of Social Media policy. As a result, COPA finds Allegation 18 is **Not Sustained**.

19. It is alleged that on or about July 15, 2018, Lieutenant John Cannon posted a statement on Facebook that was disrespectful to CPD, in that he responded to a post containing the BWC footage of a police-involved shooting by stating, “Brave young warriors face to face with an urban terrorist and the better trained professional Police Officer won the day. Excellent work by all the new batch of warriors. Love it. (sic)”<sup>88</sup>



Lt. Cannon denied the allegation. He insisted that his post is not objectively disrespectful to the Department. Instead, he claimed, it is “complimentary to the Chicago Police Department and its use-of-force training as manifested by a police officer who was faced with the unfortunate decision to use force. Based on the officer’s training, he was able to survive and win a gunfight.”<sup>89</sup>

COPA finds that the post does violate Departmental rules. First, it violates policy by referring to the deceased civilian, [REDACTED], with the derogatory term “terrorist.” Therefore, the post violates Rule 32 in that it is a public statement pertaining to the Police Department that uses abusive language and invective, in addition to violating the Social Media policy’s prohibition on disparagement and Rules 2, 3, and 8.

<sup>88</sup> Note: The video attached captures the shooting of [REDACTED].

<sup>89</sup> Att. 23, pg. 48, lines 12-24 and pg. 49, lines 1-9.

Second, the post discredits the Department's mission. The Department has specific directives governing the use of deadly force and the review of any deadly force incidents. These directives were created in light of significant community concern about police officers killing civilians and are a reflection of the Department's goal of providing measured and thoughtful review of deadly force incidents. Lt. Cannon opining on the propriety of this shooting and dubbing it to be "excellent work," based upon viewing body-worn camera shared by a news agency, is the antithesis of this measured and thoughtful approach and impedes the Department's abilities to implement those goals. Likewise, Lt. Cannon's choice of the word "warriors" to describe the officers involved in the incident is contrary to the Department's mission. Officers are meant to protect and serve, and any use of force, especially deadly force, is a last resort. Therefore, this post violates Rules 2 and 3 and the Use of Social Media policy.

The post does touch on a matter of public concern, as it discusses a highly-publicized police shooting. However, COPA finds that the Department's interests in promoting public service and discipline outweigh Lt. Cannon's interest in commenting in this manner. First, Lt. Cannon's use of derogatory terms diminishes his interests and highlights the Department's interests. Citizens cannot expect to be treated fairly when a supervisory member uses such derision towards a man killed by the police, and the Department has a strong interest in limiting this speech.

Second, the Department has a strong interest in regulating the speech as a public statement that discredits the Department's mission. COPA finds that Lt. Cannon's post reflected an incorrect application of Department policy by advocating that the shooting was "excellent," despite the fact that Lt. Cannon had insufficient evidence to opine on whether the use of deadly force was necessary. Additionally, Lt. Cannon's post was derogatory towards Mr. ██████████.<sup>90</sup> The Department has a strong interest in regulating this speech because the post undermines the Department's mission and goals in assessing the use of deadly force. Lt. Cannon's use of the label "warriors" further demonstrates that he is unable to provide the appropriate assessment of deadly force incidents. The Department's interests are even stronger because Lt. Cannon is a supervisor, and his comments adversely impact his ability to ensure officers under his command properly apply the Department's deadly force policy. As a result, the preponderance of the evidence

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<sup>90</sup> An Eleventh Circuit case, *Snipes v Volusia County*, 704 Fed Appx. 848 (2017), and a Ninth Circuit case, *Moser v. Las Vega Metro Police Dep't*, 984 F.3d 900 (2021) illustrate the Department's overriding interest in disciplining this speech. In *Snipes*, following the death of Trayvon Martin, an officer from a neighboring county posted to Facebook, "Another thug gone! Pull up your pants and act respectful. Bye bye thug rip!" The court held that the officer's use of derogatory and vulgar phrases weighed against him in the balancing of interests. In *Moser*, after the police arrested a man who had previously killed an officer, an officer commented on Facebook, "We caught that asshole...It's a shame he didn't have a few holes in him..." The Court analyzed two interpretations of the post and noted that under the department's interpretation, the officer "wanted his fellow officers to shoot (and possibly kill) the suspect, regardless of whether the use of deadly force (or any force) was necessary." The court held the officer would not enjoy First Amendment protection under the department's interpretation of the post, but summary judgement was inappropriate because the officer provided a different interpretation that would be protected under the First Amendment. Specifically, the officer asserted the post was a hyperbolic and admittedly inappropriate way of conveying that he wished the murdered officer had been able to fire defensive shots when ambushed. COPA finds that Lt. Cannon's post is akin to *Snipes*' derogatory and vulgar phrasing, as well as the department's interpretation of *Moser*'s speech advocating unlawful deadly force. For these reasons, Lt. Cannon's post has limited First Amendment protection and the Department's interests outweigh Lt. Cannon's interests.

establishes that the Department's interests outweigh Lt. Cannon's interests, and COPA finds Allegation 19 is **Sustained**.

## VI. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Lieutenant John Cannon

#### i. Complimentary and Disciplinary History

Lt. Cannon has received one 2004 Crime Reduction Ribbon, one 2009 Crime Reduction Award, one 2019 Crime Reduction Award, one Attendance Recognition Award, five complimentary letters, ten Department Commendations, one Deployment Operations Center Award, 152 Honorable Mentions, two Honorable Mention Ribbon Awards, one Joint Operations Award, one Military Service Award, one NATO Summit Service Award, one Police Officer of the Month Award, one 2008 Presidential Election Deployment Award, one Problem Solving Award, one Recognition/Outside Governmental Agency Award, and two Special Commendations. Lt. Cannon has no sustained disciplinary history in the past five years.

#### ii. Recommended Penalty

COPA has found that Lt. Cannon violated Rules 2, 3, 6, 8, and 32 by repeatedly posting racist, sexist, homophobic, misogynistic, and xenophobic memes and comments on Facebook. Although Lt. Cannon apologized for some of the posts, COPA finds his contrition lacks credibility. As previously stated, his flagrant disregard for Department policies, as well as the nature of the posts and the frequency with which he posted them, all suggest he was expressing his true views. Lt. Cannon's posts disparage the same protected classes he took an oath to protect and serve, including Muslims, African Americans, Hispanics, Asian Americans, the LGBTQ community, and women. Through his use of social media, Lt. Cannon has demonstrated that he is unable to treat all the citizens of Chicago with fairness and equity. His misconduct is particularly egregious for a high-ranking supervisor with 23 years on the force. For these reasons, COPA finds Lt. Cannon is unfit to continue serving as a member of the Chicago Police Department, and recommends that he be **separated** from the Department.

Approved:



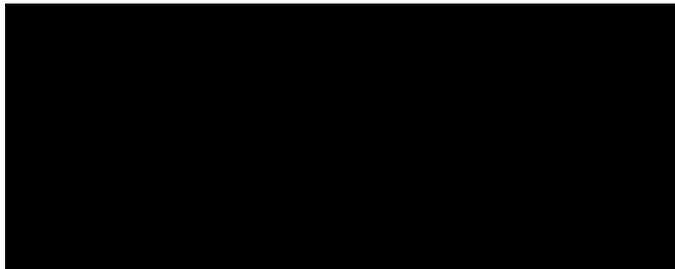
11/9/2021

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Matthew Haynam  
*Deputy Chief Administrator – Chief Investigator*

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Date



11/9/2021

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Andrea Kersten  
*Interim Chief Administrator*

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Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	6
<b>Major Case Specialist:</b>	Emily Pierce
<b>Supervising Investigator:</b>	Steffany Hreno
<b>Deputy Chief Administrator:</b>	Matthew Haynam
<b>Attorney:</b>	Michael Hohenadel