



Lori E. Lightfoot
Mayor

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

David O. Brown
Superintendent of Police

June 14, 2022

Andrea Kersten
Chief Administrator
Civilian Office of Police Accountability (COPA)
1615 West Chicago Avenue, 4th Floor
Chicago, Illinois 60622

Re: Complaint Log Number 2020-0003282
Superintendent's Non-Concurrence with COPA's Findings and Recommended
Penalty (90 day suspension)
Sergeant Michael Tews # 1463

Dear Chief Administrator Kersten:

After a careful review of the above referenced complaint log number, the Chicago Police Department (CPD) does not concur with the sustained findings nor the recommended penalties. Pursuant to the Municipal Code of Chicago, MCC 2-78-130, the CPD provides the following comments.

The COPA investigation recommended a penalty of a ninety (90) day suspension after the investigation sustained the following allegations against the accused member

1. Used excessive force by driving his vehicle into pedestrians, without justification;
2. Failed to investigate whether his use of force resulted in injuries;
3. Failed to use time as a tactic to mitigate the need for force;
4. Failed to accurately detail the use of force in a Tactical Response Report;
5. Failed to notify OEMC of his reportable use of force;
6. Failed to operate his Department vehicle with due regard for the safety of all persons;
7. Failed to yield the right of way to all pedestrian traffic while operating his Department vehicle in non-pursuit emergency operations;
8. Failed to ensure OEMC was notified of the deployment of OC spray;
9. Investigating a reportable use of force despite using or ordering a reportable use of force during the same incident;
10. Reviewing a reportable use of force incident despite using and/or ordering a reportable use of force during the same incident;

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11. Failing to enter his PSIT Logon Identification number in the PDT.

This non-concurrence is primarily based on the totality of the circumstances of events occurring on that day.

The incident was initiated by a group of protesters converging on a police vehicle in traffic, trapping and attacking that vehicle. The hostile protesters left the curb/sidewalk and approached the police vehicle in traffic in order to surround and unlawfully restrain the police car and its single occupant. These individuals displayed a complete disregard for their safety, as well as the safety of the officer and other motorists. While they have a right to take part in first amendment activities, the rights protected by the First Amendment exercised on the public way are not absolute and are subject to time, place, and manner restrictions, as well as other applicable laws. These individuals violated numerous city ordinances

These illegal actions by the protesters brought about a mob mentality amongst some in the group. When the opportunity presented itself this group rushed, surrounded, and began pounding on the one-man marked police vehicle. This understandably caused the officer to fear for his safety, leading to his pleas for help. The urgent call for help from the officer caused Sgt. Tews to leave his assignment location and respond. Upon arrival at the designated location of the call for help and not locating the officer, Sgt. Tews' sense of urgency increased as he continued to search for Officer Much. Sgt. Tews radioed to dispatch for additional location information. Sgt. Tews then observed a large group ahead occupying the street. Believing this to be where the marked police car was being surrounded by the group of protesters, he approached. Upon approach Sgt. Tews states his vehicle was attacked by hostile protesters from the group who began striking his vehicle and causing damage including breaking and shattering the rear window of the vehicle making the car's emergency lighting system (blue-lights) inoperable.

Sgt. Tews stated that he feared for his safety and his passengers, so he immediately attempted to remove himself from the situation by attempting to retreat via the only open avenue of escape which was the unoccupied wide sidewalk as all the protesters were on the street. This allegation of driving on the sidewalk without justification was exonerated in this investigation. Sgt. Tews stated that he continued cautiously on the sidewalk which is when he observed the mob leave the street and rush to the sidewalk and his vehicle. The hostile mob is depicted on the video continuing their assault on the vehicle and its occupants, attempting to trap the police vehicle while striking it with items and throwing themselves onto the vehicle. The sergeant and passenger officers stated these actions increased their concern for their safety and the need to continue their retreat. The withdrawal of Sgt. Tews' vehicle drew the hostile group away from the one man police vehicle and allowed that officer to escape from the hostile mob which had been surrounding him. The Department expects its members to develop, display the skills and abilities to act in a manner to eliminate the need to use force and resolve situations without resorting to force. The actions displayed by Sgt. Tews demonstrated this perfectly. Sgt. Tews' statement describes how he also used time as a tactic and slowed down the entire situation by stopping when the large crowd was blocking the street and did not attempt to proceed through them. One cannot imagine what might've occurred if he hadn't used de-escalation tactics, quick-thinking and keen awareness of his surroundings to locate a zone of safety and retreat via the unoccupied sidewalk in order to prevent or reduce the need for force, in accordance with G03-02. The video depicts the protesters as they transformed into a mob upon the sight of a police car. These protesters were in control of their actions and the entire situation while the officers were only able to react by using de-escalation tactics, deciding to retreat, ensuring the safety of all involved. The statements provided by Sgt. Tews and the officer passengers match with what is seen in the video. There is also no evidence provided to support the premise that the accused member's actions constitute a use of force or excessive force. The member did not intentionally use the vehicle to attempt to control, block or seek compliance from the crowd of marchers. The member's intentions as per their statements

was to respond and render aid to the trapped officer, but their actions as viewed on the video and stated in their statements, was to retreat and remove themselves from the area of the hostile crowds by withdrawing to a safety zone, the sidewalk, and continue to withdraw as the crowd followed and continued their attack.

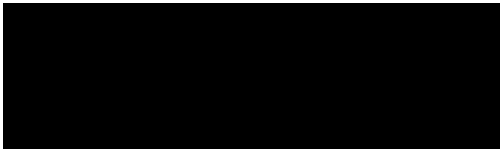
As a result, it is the opinion of the undersigned that the findings should be as follows:

1. Used excessive force by driving his vehicle into pedestrians, without justification –
Unfounded
Sergeant Tews' actions with the vehicle did not qualify as a use force, as the member's actions were not directed to gain compliance or control from any individual. The accused member Sgt. Tews was retreating from a mob of individuals who were attacking them throughout the entire incident. The member was not using the vehicle to herd or control the groups in any way, which would require the use of force. Instead the officers were attempting to de-escalate, retreating for their own safety and the safety of the hostile crowd. It must be recognized that Sgt. Tews did not create the encounter on the sidewalk. He was using the sidewalk to re-position the police vehicle and officers and avoid a dangerous confrontation. The actions of the protesters created this situation. These protestors should not be categorized as "pedestrians," as is done throughout this investigation. When individuals attack a police vehicle, unlawfully reach into the police vehicle, and pound on a police vehicle, they can hardly be considered "pedestrians." The identification of "pedestrians" gives the appearance of individuals walking, crossing, and/or standing peaceably on the street. This was not the case.
2. Failing to investigate if your use of force resulted in any injuries - Unfounded.
Sgt. Tews' actions did not constitute a use of force. Further, as related by the COPA investigator and also evident from the video, it was not safe to stop.
3. Failing to use time as a tactic to mitigate the need for force - Exonerated.
Sgt. Tews' statement describes how he also used time as a tactic and slowed down the entire situation by stopping when the large crowd was blocking the street and did not attempt to proceed through them. One cannot imagine what might've occurred if he hadn't used de-escalation tactics, quick-thinking and keen awareness of his surroundings to locate a zone of safety and retreat via the unoccupied sidewalk in order to prevent or reduce the need for force, in accordance with G03-02.
4. Failing to accurately detail the force used in a Tactical Response Report - Exonerated.
Tews' actions with vehicle by attempting to remove himself and occupants to a safer area did not constitute a use of force. Further the member did in fact submit all required reports including a Tactical Response Report which detailed the assault directed at them, as per department policy.
5. Failing to report to OEMC a reportable use of force – Unfounded
Tews' actions did not constitute a use of force.
6. Failing to operate your Department vehicle with "due regard for the safety of all persons." -
Exonerated
Sgt. Tews' statement describes how he also used time as a tactic and slowed down the entire situation by stopping when the large crowd was blocking the street and did not attempt to proceed through them. One cannot imagine what might've occurred if he hadn't used de-escalation tactics, quick-thinking and keen awareness of his surroundings to locate a zone of safety and retreat from the attacking crowds via the unoccupied sidewalk in order to prevent or reduce the need for force, in accordance with G03-02.

7. Failing to yield the right-of-way to all pedestrian traffic while operating your Department vehicle in non-pursuit emergency operations- Unfounded.
Per the accused member's statement and the video, the hostile, aggressive and combative crowd left him no other option but to retreat via a sidewalk as the hostile crowd took over the street and failed to yield the right of way to an emergency police motor vehicle. Therefore the member yielded the entire street to the hostile group and retreated to the empty sidewalk.
8. Failing to ensure OEMC was informed of the deployment of OC spray - Unfounded.
As per the statements of department members and the investigator, the accused Sgt. was not aware that a passenger officer within the vehicle had discharged their OC spray.
9. Investigating a reportable use of force despite using and/or ordering a reportable use of force during the same incident - Exonerated.
As detailed previously the alleged members' actions did not constitute a use of force.
10. Reviewing a reportable use of force despite using and/or ordering a reportable use of force during the same incident - Exonerated.
As detailed previously the alleged members' actions did not constitute a use of force.
11. Failing to enter your PSIT Logon Identification Number (PC Number) into your PDT.
Sustained / Reprimand.

The Chicago Police Department looks forward to discussing this matter with you pursuant to MCC 2-78-130(a)(iii).

Sincerely,



David O. Brown
Superintendent of Police
Chicago Police Department