



October 10, 2023

Mr. Max A. Caproni
Executive Director, Chicago Police Board
30 North LaSalle Street, Suite 1220
Chicago, Illinois 60602

Via Email and U.S. Mail

RE: Request for Review, Log #2021-0003389

Dear Mr. Caproni,

Pursuant to the Municipal Code of Chicago Section 2-78-130 and Police Board Rules of Procedure Section VI, please consider this letter a Request for Review of a non-concurrence between the Civilian Office of Police Accountability (COPA) and the Superintendent of the Chicago Police Department (Department) in Log # 2021-0003389.¹

As set forth in detail in COPA's Summary Report of Investigation dated February 24, 2023 (SRI), there is a compelling legal and evidentiary basis to support COPA's disciplinary recommendation of Police Officer Chris Chausse #10422. COPA recommended Officer Chausse receive discipline of a minimum 180-day Suspension, up to and including Separation, based on findings that he (1) applied pressure to [REDACTED] face using his foot, without justification, and (2) failed to activate his Body Worn Camera (BWC) during a law enforcement activity.²

I. BACKGROUND

A. Relevant Factual Background³

On August 27, 2021, officers responded to 911 calls of a reckless driver who crashed into the Christian Dior store ("Dior") at 931 N Rush St. [REDACTED] the driver, exited his vehicle and entered the store. [REDACTED] behaved erratically, attempted to destroy Dior property, and was combative with staff. Medical records and subsequent interviews indicate that [REDACTED] was experiencing heart failure and may have been intoxicated. Multiple officers arrived at Dior and attempted to restrain [REDACTED] with assistance from Dior security officers.

Eventually, officers restrained [REDACTED] so that he was on his right side with his right shoulder pinned under him. Some Department members held [REDACTED] left shoulder and both of his arms. During this interaction, Officer Chausse stepped onto [REDACTED] face. (See Figures 1 and 2). [REDACTED] pulled his face back or was pulled back by officers. An officer then said words to the effect that [REDACTED] had grabbed another

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

² The Superintendent concurs with COPA's findings that Officer Chausse committed misconduct by failing to activate his BWC during a law enforcement activity, without justification. The Superintendent disputes that Officer Chausse was unjustified in applying pressure to [REDACTED] face without justification. The Superintendent further disputes that a 180-day suspension is an appropriate penalty for these violations.

³ A more detailed factual summary can be found in the SRI.

Department member's gun. Officer Chausse then stepped on or near [REDACTED] head or neck area at least twice more. (See Figures 3-5). At one point during this incident, another Department member—Officer Markvart—looked at Officer Chausse and said “No. No. Don’t” after Officer Chausse continued stepping towards [REDACTED] head and neck.⁴



Figure 1: Officer Chausse in the process of stepping on [REDACTED] face.⁵

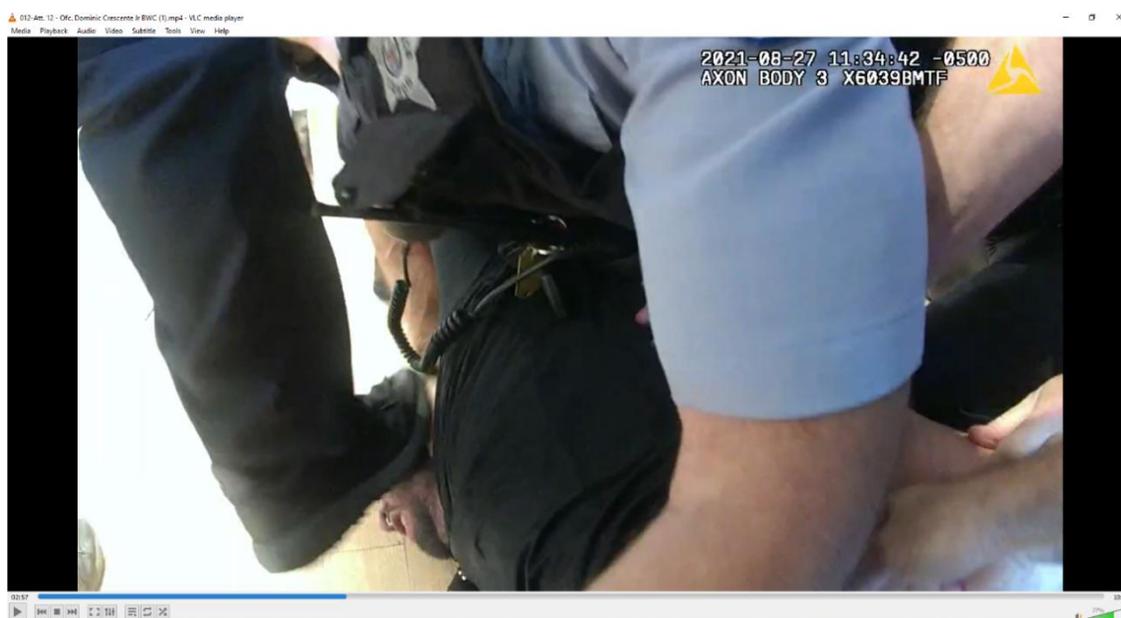


Figure 2: Officer Chausse stepping on [REDACTED] face while Department members hold [REDACTED] shoulder.⁶

⁴ Att. 12 – Ofc. Dominic Crescente Jr. BWC at 3:02.

⁵ Att. 12 BWC at 2:57.

⁶ Att. 12 BWC at 2:57.

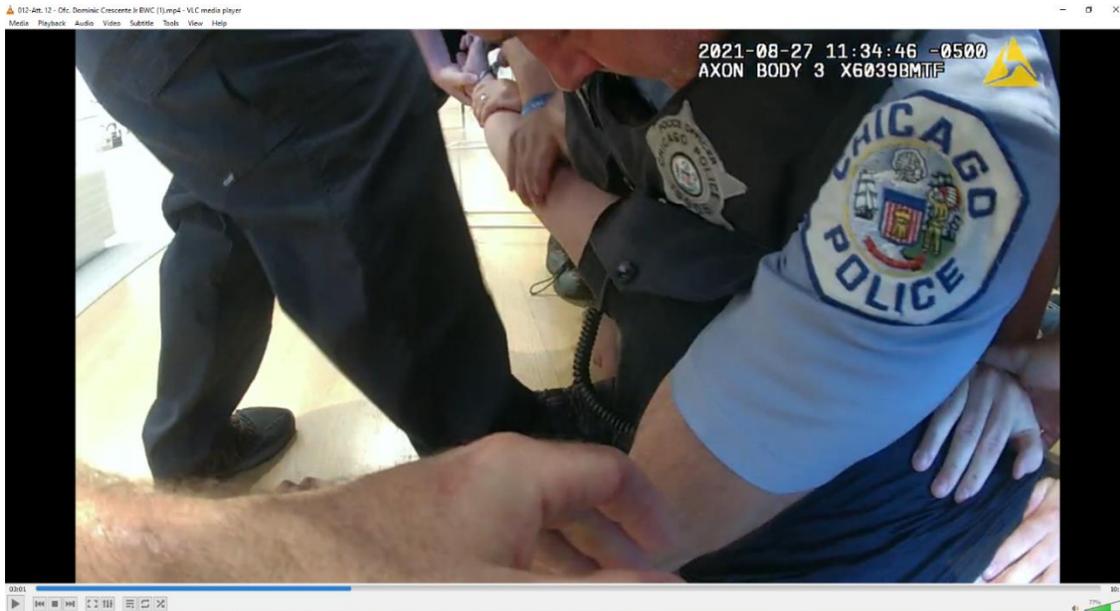


Figure 3: Another instance of Officer Chausse attempting to step on [REDACTED] face or neck.⁷



Figure 4: Officer Chausse stepping on the back of [REDACTED] neck and head (top center) while [REDACTED] is being handcuffed, sprawled on his stomach, and held by other Department members.⁸

⁷ Att. 12 BWC at 2:58.

⁸ Att. 12 BWC at 3:29.



Figure 5: Officer Chausse holding his foot on the back of [REDACTED] head or neck (top left corner) while officers hold [REDACTED] arms, shoulders, and legs.⁹

Eventually, officers maneuvered [REDACTED] on his stomach with his arms in front of his head and attempted to handcuff him.¹⁰ [REDACTED] continued to pull away from the officers, and Officer Chausse stepped onto the back of [REDACTED] neck.¹¹ Officer Chausse kept his foot on [REDACTED] neck for approximately 8 seconds.¹² (See Figure 5).

A. Disputed Findings and Recommendations

The Interim Superintendent concurs with the Sustained finding against Officer Chausse for Allegation #2,¹³ but seeks a lower penalty. The Interim Superintendent also disputes COPA's findings for Allegation #1. The Interim Superintendent further disagrees with the recommended penalty range of a 180-day Suspension to Separation.

B. Applicable Department Policy

1. Use of Direct Mechanical Techniques

CPD policy prohibits Department members from using direct mechanical techniques against active resisters. Direct mechanical techniques consist of “forceful, concentrated striking movements such as punching and kicking, or *focused pressure strikes and pressures*.”¹⁴ *Direct mechanical strikes are permitted only against “assailants.”*¹⁵ An assailant is someone “who is using or threatening the use of force against another person or himself/herself which is likely to cause physical injury.”¹⁶ CPD policy further subdivides assailants into two categories: “(1) a person whose actions are aggressively offensive with or without weapons and (2) a

⁹ Att. 12 BWC at 3:34.

¹⁰ Att. 12 BWC at 3:07-3:27.

¹¹ Att. 12 BWC at 3:28.

¹² Att 12. BWC at 3:28-3:36.

¹³ Allegation #2 is that Officer Chausse failed to activate his Body Worn Camera (BWC) during a law enforcement activity, without justification, in violation of Chicago Police Department Special Order S03-14 (effective April 30, 2018).

¹⁴ G03-02-01 IV.C.1.a.(1) (emphasis added).

¹⁵ G03-02-01 IV.C.1.a.(1) (emphasis added).

¹⁶ G03-02-01 IV.C.

person whose actions constitute an imminent threat of death or great bodily harm to a Department member or to another person.”¹⁷

II. ANALYSIS

A. The Interim Superintendent rejected COPA’s attempts to negotiate a lower penalty.

As a preliminary matter, COPA notes that it had attempted to negotiate the penalty recommendation for Officer Chausse with the Interim Superintendent. In his non-concurrence letter, the Interim Superintendent argues that the “recommended penalty [wa]s Excessive,” and cites to two prior COPA recommendations with lower penalties.¹⁸ Although COPA believes that the cases cited by the Interim Superintendent are factually distinguishable,¹⁹ COPA attempted to address the Interim Superintendent’s concerns regarding the penalty recommendation. The Interim Superintendent, however, rejected COPA’s attempts to reach an agreeable penalty and stood firm on his claim that Officer Chausse committed no misconduct. As explained further below, the evidence shows that Officer Chausse repeatedly stepped on ██████ head and neck in blatant violation of CPD policy.

B. The Interim Superintendent’s defense of Officer Chausse’s use of direct mechanical strikes by repeatedly stepping on an active resister’s head and neck disregards CPD’s use of force policy.

The Interim Superintendent ignores Department policy regarding use of force and mischaracterizes BWC evidence clearly showing Officer Chausse’s misconduct.

First, the Interim Superintendent claims that Officer Chausse’s explanation for stepping on ██████ face was understandable and reasonable, and that his conduct was unintentional.²⁰ COPA strongly disagrees. The Interim Superintendent’s claim that Officer Chausse’s actions were unintentional is contradicted by video footage of the incident. Specifically, the BWC footage shows Officer Chausse stepping on or about ██████ face and neck several times, including after Officer Markvart told Officer Chausse “No. No. Don’t”,²¹ and while ██████ was restrained and positioned on his stomach²². This was not an isolated accident. Rather, such repeated behavior, even after being asked to stop, and after ██████ was restrained, strongly suggests intentional conduct.

The Interim Superintendent further echoes Officer Chausse’s claims that he was attempting to apply pressure to ██████ shoulder when he stepped on ██████ face and neck.²³ Again, the Interim Superintendent’s claim is undermined by the evidence. The BWC shows numerous CPD members and Dior security officers restraining ██████ and holding his shoulder throughout the incident. COPA finds that it

¹⁷ G03-02-01 IV.C.

¹⁸ Interim Superintendent’s Letter of Non-concurrence, p. 2 (May 24, 2023).

¹⁹ Although the cases cited by the Superintendent involve incidents where CPD members kicked detainees classified as resisters who were on the ground, significant factual differences exist between these cases and the case at hand. Both cases involve incidents that took place outdoors, where it is arguably more difficult to contain a person than in an enclosed space such as Dior. Both cases also involved fewer officers than the more than eight officers and security guards attempting to contain ██████. In 2019-0002550, COPA recommended a 60-day suspension against an officer after sustaining an allegation that he kicked an active resister in the face once while he and his partner struggled to detain the person outdoors. In 2021-0003320, COPA recommended a 90-day suspension against an officer for once kicking an active resister suspected of committing an armed robbery and striking him once with an open palm while a loose firearm lay on the ground nearby. COPA believes Officer Chausse’s misconduct in repeatedly stepping on ██████ face and head for a total of approximately 30 seconds to be more egregious than that involved in either of the cases cited by the Interim Superintendent.

²⁰ Interim Superintendent’s Letter of Non-concurrence, p. 2 (May 24, 2023).

²¹ Att. 12 BWC at 3:02.

²² Att. 12 BWC at 3:27.

²³ Interim Superintendent’s Letter of Non-concurrence, p. 2 (May 24, 2023).

is unreasonable to believe that Officer Chausse would attempt to step on [REDACTED] shoulder while other Department members were already holding it.²⁴ In addition, contrary to the Interim Superintendent's claim that Officer Chausse repeatedly moved his foot away when it got close to [REDACTED] head, Officer Chausse can be seen repeatedly stepping towards [REDACTED] face and neck each time [REDACTED] moves away from Officer Chausse's foot.²⁵ The preponderance of the evidence thus shows that Officer Chausse stepped on [REDACTED] face repeatedly and intentionally.

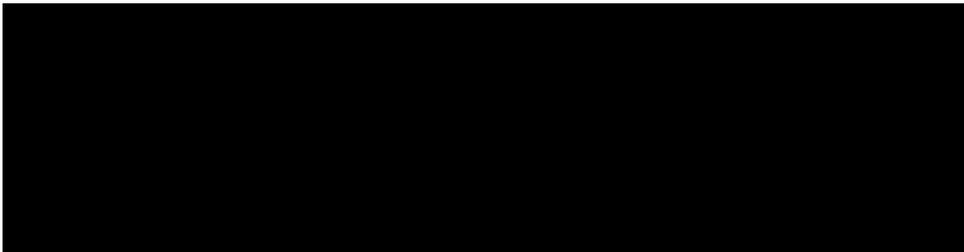
Second, the Interim Superintendent attempts to justify Officer Chausse's use of a mechanical strike technique on an active resister by relying on [REDACTED] prior conduct of attempting to reach for another officer's firearm. In so doing, the Superintendent implies that [REDACTED] became an assailant without describing him as such.²⁶ Per CPD policy, even if at one point [REDACTED] was an assailant, Officer Chausse was thereafter required to "continually assess the situation" and modify his use of force based on changes in circumstances and [REDACTED] actions.²⁷ The evidence here shows that he did not.

Rather, the evidence shows that Officer Chausse stepped on [REDACTED] face prior to becoming aware that [REDACTED] may have been reaching for another officer's gun. Officer Chausse also stepped directly on [REDACTED] face and neck once [REDACTED] was restrained and sprawled on his stomach. At this point, it is indisputable that [REDACTED] was not an assailant. Here, Officer Chausse's use of direct mechanical strikes against [REDACTED] while he resisted arrest was prohibited by CPD policy, and the Interim Superintendent has failed to show otherwise.

III. CONCLUSION

For these reasons, COPA maintains that the Superintendent has failed to meet his affirmative burden of showing COPA's recommendations in this case are unreasonable. Accordingly, COPA respectfully requests that the Chicago Police Board reject the Superintendent's non-concurrence in this matter and accept COPA's finding that Officer Chausse committed misconduct.

Respectfully,



Andrea Kersten
Chief Administrator
Civilian Office of Police Accountability

²⁴ Att. 12 BWC at 2: 55, 2:57, 2:59, 3:02, and 3:27.

²⁵ Att. 12 BWC at 2:59, 3:00-3:01, and 3:27.

²⁶ In fact, the Interim Superintendent appears to concede that [REDACTED] was an active resister, describing him as a "man [who] continued to resist, struggle, and pull away." Interim Superintendent's Letter of Non-concurrence, p. 1-2 (May 24, 2023).

²⁷ G03-02-01 I.E.