



Brandon Johnson
Mayor

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Fred L. Waller
Interim Superintendent

May 24, 2023

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

Re: Superintendent's Partial Non-Concurrence with Findings and
Non-Concurrence with Penalty Recommendation,
Complaint Log No. 2021-0003389

Dear Chief Administrator Kersten:

After a careful review of the above referenced complaint log number, the Chicago Police Department (Department) does not concur with one of the recommended findings nor with the recommended penalty as they pertain to Officer Chris Chausse #10422. Pursuant to the Municipal Code of Chicago, the Department provides the following comments.

The COPA investigation recommended a penalty of a minimum 180-day suspension for Officer Chausse after concluding that he:

1. Applied pressure to [REDACTED] face using his foot, without justification;
2. Failed to activate his BWC during law enforcement activity.

Allegation #1:

COPA's basis for its determination is that video evidence shows that Officer Chausse placed his right foot on [REDACTED] face, and then placed his foot on or near [REDACTED] face and neck two additional times, demonstrating intent. COPA further states that Officer Chausse's claim that his foot inadvertently slipped onto [REDACTED] face is implausible. COPA notes that another officer on the scene, Officer Markvart, looked in Officer Chausse's direction and said "No. No. Don't." when he saw what Officer Chausse was doing. "This suggests that even Officer Markvart, who was confronted with the same circumstances and similarly situated, believed that Officer Chausse's actions were improper." (SRI at Page 18).

The Department disagrees with COPA's basis because it completely disregards the totality of the circumstances and the overall situation in which not just one or two officers but several Chicago Police officers were actively struggling to take an extremely impaired, combative and uncooperative

offender into custody. This man continued to resist, struggle and pull away. In his statement, Officer Chausse does not deny his foot was on the offender's face at some point and his TRR documents this action. Chausse's explanation that he attempted to apply pressure to the man's shoulder to control his arm is completely understandable and reasonable. Chausse stated that he heard someone state "he's grabbing my gun, he's got my gun" and he attempted to place his foot on the offender's shoulders to prevent the offender from grabbing the other officer's gun. It is further understandable and reasonable that his foot would slip off due to all the movement and the continuing resistance by the large man. Every video supports that there was non-stop movement and every time Officer Chausse's foot was near the man's face, Officer Chausse would immediately move his foot.

Upon hearing these statements that the offender was grabbing the other officer's firearm, Officer Chausse was authorized to increase his level of force being used. Therefore, even if intentional, Officer Chausse's actions were justifiable. But according to his statements, for which there is no evidence to contradict, the contact was accidental and incidental to the on-going physical struggle.

COPA is also completely wrong in determining that Officer Markvart's comments suggested that he recognized that Officer Chausse's actions were improper. Markvart's comments could have been made simply because it is possible Markvart thought Chausse's foot or leg was in his way in trying to handcuff the man. And this question could have been answered if Markvart had been asked during his statement to COPA as to why he made this comment. However, this question was never asked of him.

Further, COPA makes the statement that Lt. Weiglein's review of the incident documents that Officer Chausse's use of force was not in compliance with CPD policy and directives. This is completely wrong to state as Lt. Weiglein specifically states that: "Based on the Reporting Lieutenant's preliminary investigation and due to the extensive amount of evidence as well as limited technological restraints to make an accurate determination, the R/Lt is recommending further investigation of the incident under CL #2021-0003389." Lt. Weiglein is not making a final determination and the purpose of the Initiation Report is for an investigation to determine if the member's actions were within policy or not.

It is for these reasons that the Department recommends a Finding of Not Sustained for Allegation #1.

Even assuming that Allegation # 1 should be sustained, which based on the evidence it should not be, the recommended penalty is Excessive. The recommended penalty of a minimum 180-day suspension is excessive and inconsistent with previous recommended penalties for this type of allegation. According to the Consent Decree, discipline is to be consistently applied. "COPA and CPD will ensure that the recommended level of discipline for findings is consistently applied in a fair, thorough and timely fashion, based on the nature of the misconduct. CPA and CPD will ensure that mitigating and aggravating factors are identified, consistently applied and documented" (Paragraph 513, Consent Decree, State of Illinois v City of Chicago, (No. 17-CV-6260, N.D. Illinois, January 1, 2019). The Consent Decree further requires the Department to "use best efforts to ensure that the level of discipline recommended for sustained findings is applied consistently across CPD districts..."(Id. At Paragraph #514).

In Log No. 2021-0003320, COPA sustained two allegations against a Department member for kicking an arrestee in the head while the arrestee was on the ground being handcuffed and then striking the arrestee on the head with his hand or fist. In his statement to COPA, the Department member stated that he intended to kick the arrestee in the shoulder and the hand/fist strikes were used to try to get the arrestee to stop resisting. After sustaining the allegations, COPA recommended a 90-day suspension and the Department concurred.

In Log No. 219-0002550, COPA sustained two allegations against a Department member for kicking / stomping an arrestee in the head/face without justification and for failure to document the force on a Tactical Response Report. The arrestee was also on the ground on his chest when the officer and his partner were trying to handcuff the arrestee. In his statement to COPA, the accused member denied any contact and stated that to the extent there was any, it was accidental. After sustaining the allegations, COPA recommended a 60-day suspension and the Department did not concur.

Allegation #2:

The Department concurs in the finding of Sustained for the failure to activate his BWC for law enforcement activity. Although the Department believes Officer Chausse's explanation that he thought he activated his BWC when he ran into the establishment to assist his fellow officers and that he didn't realize he didn't until he went to de-activate his BWC after the incident, it is imperative that BWC's be activated because the video is a critical tool to determine the true circumstances of police-citizen encounters. As such, it is the opinion of the Department that the appropriate penalty should be a 10-day suspension for this violation.

Sincerely,



Fred L. Waller
Interim Superintendent
Chicago Police Department