



Brandon Johnson
Mayor

Department of Police · City of Chicago
3510 S. Michigan Avenue · Chicago, Illinois 60653

Larry Snelling
Superintendent of Police

April 17, 2024

Andrea Kersten
Chief Administrator
Civilian Office of Police Accountability (COPA)
1615 W. Chicago Ave., 4th Floor

Re: Superintendent's Concurrence and Non-Concurrence with COPA's findings and recommendations
Log #2020-3752
Officer Hakki Gurkan #18283 and Officer Thomas McNichols #3051

Dear Chief Administrator Kersten:

Based on a review of the above-referenced complaint register (CR), the Chicago Police Department (CPD) concurs with some of the findings, but does not concur with the sustained finding for two of the allegations against Officer Gurkan, as will be discussed in greater detail below. Despite this disagreement, CPD agrees that the evidence presented in support of three of the sustained findings is sufficient to support COPA's recommendation of a 180-day suspension for Officer Gurkan. CPD agrees with the sustained finding of the single allegation against Officer McNichols, but disagrees with the recommended penalty of a 10-day suspension. CPD recommends a 1-day suspension for Officer McNichols.

In accordance with Municipal Code of Chicago, MCC 2-78-130, the Superintendent provides the following comments when there is a disagreement as to the investigative findings and proposed penalty:

Summary and Analysis of the Facts and Evidence

COPA sustained 5 of 6 allegations against P.O Gurkan stemming from two separate domestic incidents involving [REDACTED]. The first incident occurred in July of 2020 and no report exists, only calls for service records and BWC of the officers who responded. The existence of this incident came to light during the investigation of the August 2020 domestic incident in which P.O. Gurkan was arrested and charged with Domestic Battery.

The allegations stemming from the August 2020 domestic incident are legally sufficient when considered under a "preponderance of the evidence" standard, based upon the evidence presented by COPA. The allegations stemming from the July 2020 incident, however, are not legally sufficient, as will be discussed in further detail below.

The evidence uncovered in COPA's investigation included BWC recordings of officers who responded to the two domestic incidents involving [REDACTED]. There are also statements from P.O. Gurkan and P.O. McNichols. P.O. Gurkan's [REDACTED] did not cooperate in the investigation, nor did [REDACTED], who was present for the initial, unreported domestic incident in July of 2020. An affidavit override was sought and granted, however, COPA apparently disregarded BIA's advice to obtain a separate Log number for the responding officers'

failure to document the July incident, precluding that possible misconduct from being investigated.

Officer Hakki Gurkan:

Allegations #2-4: Chased [REDACTED] / Grabbed [REDACTED] by her hair and/or and pulled her downward / Threw [REDACTED] property onto the street in Violation of Rules 2, 3, 6, 8, and 9

The evidence is legally sufficient to sustain these allegations. The BWC evidence of the August 2020 incident includes [REDACTED] reporting to responding officers that the actions in the allegations took place, namely, that P.O. Gurkan chased her, grabbed her, and threw her belongings into the street. The BWC also captures the independent, 3rd party witness to these events, Ms. [REDACTED] providing a substantially similar accounting of what she saw take place. Ms. [REDACTED] later gave a consistent statement to COPA. P.O. Gurkan was arrested and charged with domestic battery that night. CPD concurs with COPA's recommendation of a 180-day suspension.

Allegation #5-6: Threatened to kill [REDACTED] / Pointed a weapon at [REDACTED] in Violation of Rule 2, 3, 6, 8, and 9

The evidence is not legally sufficient to sustain these allegations.

COPA discovered during their investigation of the August 2020 incident at [REDACTED] residence that 16th District personnel had responded to a domestic disturbance at [REDACTED] residence a month earlier. Though no arrest was made, nor report generated (the incident was coded out by BT 1610 as a "1P"), COPA was able to watch the BWC video of the responding officers. Allegations 5 and 6 are based solely on what was observed on those officers' BWC.

There were 5 people who could have been interviewed regarding what took place at [REDACTED] residence in the early morning hours of July 12, 2020; [REDACTED] herself, [REDACTED], [REDACTED], Officer Adrian Griffin, who responded to the 911 call and whose BWC was viewed, and Sgt. Stefan Szubski, who also responded and whose BWC was also viewed. COPA interviewed none of them. As already mentioned, [REDACTED] and [REDACTED] did not cooperate with COPA's investigation. There is no indication COPA made an attempt to locate or interview [REDACTED], who was present on the night of the incident according to the BWC footage. Nor did COPA interview P.O. Griffin or Sgt. Szubski, despite BIA recommending in their affidavit override authorization letter that COPA initiate a separate log concerning the police response to the Gurkan household in July of 2020 and proceed with that investigation.

Viewing the BWC footage, [REDACTED] does allege to police on scene that P.O. Gurkan woke her with a gun to her head. Police remained in the house for an extended period of time, speaking to [REDACTED], [REDACTED], and P.O. Gurkan. Ultimately, [REDACTED], [REDACTED], and [REDACTED] leave the house to stay elsewhere. Per the call for service record the Sgt., BT 1610, coded the job with a "1P" code (meaning "Disturbance, Domestic - Other Police Service"). Due to COPA's failure to fully investigate this incident, based solely on the BWC footage it cannot be said that COPA have demonstrated by a preponderance of the evidence that it is more likely than not the alleged misconduct took place.

The responding officers may have been inattentive to duty for their failure to complete any sort of a report in the aftermath of the July 2020 incident. Or, they may have determined based on their preliminary investigation that [REDACTED] was not credible, that in fact no crime occurred, and that no report was necessary. If COPA had followed BIA's advice in the affidavit override authorization, if they had brought the responding officers in for statements, it could have been determined which was the case. But COPA did not pursue those investigative avenues. Rather, COPA sustained these allegations against P.O. Gurkan solely on the basis of how they interpret the

BWC footage of the police response from that night four years ago.

For the foregoing reasons, the evidence is not legally sufficient to sustain Allegations #5 and 6 and CPD does not concur with COPA's sustained findings as relates to these allegations.

Officer Thomas McNichols:

The sustained allegation against P.O. McNichols is supported by the evidence in that the evidence, namely P.O. McNichols' BWC footage, clearly demonstrates McNichols failed to capture the entire incident with his BWC.

In his statement, McNichols claims that he de-activated his BWC out of concern that P.O. Gurkan may be somehow triggered or provoked by the BWC, which may in turn cause him to commit suicide or potentially be a threat to P.O. McNichols or other responding officers. During his statement with COPA, P.O. McNichols could not point to any statement or information gathered from either [REDACTED] or P.O. Gurkan to support or form the basis of his fear. Pressed for details as to why he felt Gurkan may become so agitated, P.O. McNichols could offer nothing but generalized platitudes and vague notions of a concern for officer safety as his rationale for deactivating his BWC.

The evidence is legally sufficient to sustain the allegation. The recommended penalty of up to a 10-day suspension, however, is excessive given P.O. McNichols' complimentary and disciplinary histories (60 awards, two reprimands). Given this history, as well as McNichols reasoning - flawed though it was, it evinces an innocent, if misguided, intent - for deactivating his camera, a suspension of 1-day would be more appropriate and is CPD's recommendation.

Conclusion

CPD looks forward to discussing this matter with you pursuant to MCC 2-78-130(a)(iii). If COPA and the CPD find themselves at an impasse on the resolution of this matter, the CPD asks that COPA include all attachments from the log investigation to the member of the Police Board selected to conduct the review.

Sincerely,

[REDACTED]
Larry Shelling
Superintendent of Police
Chicago Police Department