



Brandon Johnson
Mayor

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

Larry B. Snelling
Superintendent

October 16, 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. 2019-0001839

Dear Chief Administrator Kersten:

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

The COPA investigation recommended a 10-day suspension for Officer Jesse Rodriguez # 8364 after concluding that he:

1. Interfered with [REDACTED] recording of law enforcement officers in the performance of their duties;
2. Engaged in, or attempted to engage in, an unjustified physical altercation with [REDACTED]
3. Engaged in, or attempted to engage in, an unjustified physical altercation with [REDACTED]
4. Failed to record a law enforcement activity as required by CPD Special Order S03-14.

The Department concurs in the sustained findings for Allegation #1 and Allegation #4. For these infractions, the Department recommends a penalty of a 3-day suspension.

Regarding Allegation # 2 and citizen [REDACTED] [REDACTED] the Department does not agree with the finding and recommends a finding of Not Sustained. COPA characterizes the video as showing that "Officer Rodriguez responded by crossing under the tape and engaging in a chest-to-chest confrontation with [REDACTED] SRI at page 1. Further, COPA states that "COPA simply cannot discern any legitimate law enforcement purpose that could have justified Officer Rodriguez' conduct in confronting [REDACTED] as he did." SRI at page 8. The opinion of the Department is that Officer Rodriguez did not confront [REDACTED]

but that [REDACTED] confronted Officer Rodriguez. The video clearly shows that [REDACTED] was originally standing behind the group of citizens but then moved in the direction of Officer Rodriguez. Right before Officer Rodriguez moves under the tape, [REDACTED] takes an aggressive stance indicative of a fighting position. A law enforcement officer is not required to retreat from an actual or perceived attack or aggressive movements. In this case, Officer Rodriguez was confronting a possible assailant and the follow-up actions of [REDACTED] definitely placed him in the category of an assailant.

Department policy defines an assailant as "a person who is using or threatening the use of force against another person which is likely to cause physical injury." General Order G03-02-01-IV-C. In his statement to COPA, Officer Rodriguez says " He made an assault towards me, too. He threatened to beat me up or kick my ass or use those words -- those type of words towards me." Attachment # 16 at Page 77 (Transcript Interview Officer Rodriguez). These verbal threats are not contradicted and as such, Officer Rodriguez was justified in taking appropriate action, which included physical presence and verbal instructions. It was [REDACTED] who began to physically attack Officer Rodriguez and another officer on the scene.

Regarding Allegation #3 and citizen [REDACTED] the Department does not agree with the finding and recommends a finding of Not Sustained. Although Officer Rodriguez was interfering with Citizen [REDACTED] recording on his personal device, this does not allow citizen Rodriguez to commit or attempt to commit a battery against Officer Rodriguez. The video clearly shows that citizen [REDACTED] pushed Officer Rodriguez' hand away. COPA acknowledges this by stating "[REDACTED] then slapped at Officer Rodriguez' hand. Officer Rodriguez responded by crossing under the tape....". SRI at page 1. Similar to citizen [REDACTED] Officer Rodriguez is not required to retreat from a person who commits such conduct. And Officer Rodriguez' action was in response to the action taken by citizen [REDACTED]

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

Sincerely,

[REDACTED]
Larry B. Shelling
Superintendent
Chicago Police Department