



June 15, 2026

Mr. Max A. Caproni

Executive Director, Chicago Police Board
30 North LaSalle Street, Suite 1220
Chicago, Illinois 60602

Via Email

RE: Request for Review, Log #2023-0000812

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 (CPD) in Log #2023-0000812.¹

As set forth in detail in COPA's Final Summary Report (FSR) dated February 24, 2024, there is a compelling legal and evidentiary basis to support COPA's disciplinary recommendation of Police Officer Colleen Gardner. COPA recommended Officer Gardner receive up to a 30-day suspension, based on findings that she (1) made physical contact/pushed [REDACTED] without justification, (2) failed to use de-escalation techniques during her interaction with [REDACTED] by pushing him without justification, and (3) failed to activate her body worn camera (BWC) in a timely manner.

I. BACKGROUND

A. Relevant Factual Background²

On February 24, 2023, at approximately 2:45 PM, a CPD vehicle collided with a tree, injuring the driver.³ A significant number of CPD members, as well as multiple Chicago Fire Department (CFD) ambulances and members responded to the scene.⁴ Multiple other people unaffiliated with CPD or CFD stood nearby, including others who appeared to record the accident and response on

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 A more detailed factual summary is found in the FSR.

³ Att. 4, at 1:27 to 1:32.

⁴ Att. 3, at 5:08; Att. 26, at 00:05 to 00:45.

cellphones.⁵ There was no barricade or scene tape indicating the scene was off-limits, and people appeared to walk freely through the scene.⁶ At approximately 2:55 PM, [REDACTED] stood in the street between a CFD ambulance and the curb, recording the accident and response on his cellphone.⁷ Officer Gardner approached [REDACTED] and said words to the effect of “get back, what are you doing? Get back, are you out of your mind?”⁸ Once Officer Gardner reached [REDACTED] she pushed him repeatedly in the chest, and repeated “get back.”⁹ [REDACTED] said words to the effect of “don’t put your hands on me, don’t put your hands on me, I didn’t do shit,” and stepped backwards, away from Officer Gardner while raising his hands.¹⁰ Officer Gardner continued moving towards [REDACTED] as he stepped backwards with his hands, and she pushed him again in the chest before other officers surrounded and handcuffed [REDACTED].¹¹

B. Disputed Findings and Recommendations

The Superintendent disputes sustained Allegation #1, that Officer Gardner made physical contact/pushed [REDACTED] without justification, and #2, that Officer Gardner failed to use deescalation techniques during her interaction with Gardner.¹² The Superintendent recommends an alternate finding of unfounded for both allegations.¹³ The Superintendent disputes COPA’s penalty recommendation and recommends an alternate penalty of a reprimand.¹⁴

C. Applicable Department Policy

CPD Rule 2 prohibits any action or conduct which impedes CPD’s efforts to achieve its policy and goals or brings credit upon CPD. CPD Rule 6 prohibits disobedience of any order or directive, whether written or oral. CPD Rule 8 prohibits disrespect to or maltreatment of any person, while on or off duty. CPD Rule 9 prohibits engaging in any unjustified verbal or physical altercation while on or off duty.

The applicable CPD policy is G03-02, titled “De-Escalation, Response to Resistance, and Use of Force.”¹⁵ The applicable version of G03-02 was in effect from December 31, 2020, until June 27, 2023. The “Core Principle” of G03-02 states,

The Chicago Police Department seeks to gain the voluntary compliance of persons, when consistent with personal safety. The Department expects its members to develop and display the skills and abilities to act in a manner to eliminate the need to use force and

⁵ Att. 26, at 1:02.

⁶ Att. 26, at 00:27 to 1:02.

⁷ Att. 26, at 00:55 to 1:05.

⁸ Att. 26, at 1:02 to 1:07.

⁹ Att. 26, at 1:06 to 1:12.

¹⁰ Att. 26, at 1:06 to 1:12.

¹¹ Att. 26, at 1:12 to 1:32.

¹² The Superintendent’s Letter, p. 1.

¹³ The Superintendent’s Letter, p. 1.

¹⁴ The Superintendent’s Letter, p. 2.

¹⁵ See Att. 77, G03-02.

resolve situations without resorting to force. Department members will only resort to the use of force when required under the circumstances to serve a lawful purpose.¹⁶

CPD members are required to “make an independent assessment and decision to use force based on the totality of the circumstances and whether such force is objectively reasonable, necessary, and proportional.”¹⁷ Consistent with this requirement, CPD members “may only use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, in order to ensure the safety of a member or third person, stop an attack, make an arrest, bring a person or situation safely under control, or prevent escape.”¹⁸

When determining whether force is reasonable, CPD members must consider factors including (a) “whether the person is posing an imminent threat to the member or others”, (b) “the risk of harm, level of threat or resistance presented by the person”, (c) “the person’s proximity or access to weapons”, (d) “whether de-escalation techniques can be employed or would be effective”, and (e) the availability of other resources”.¹⁹ The order stresses that CPD members may only “use the minimum amount of force needed” in performing law enforcement duties.²⁰ Furthermore, G03-02 requires CPD members to “continually assess the necessity of the use of force and whether alternatives may be employed, including the use of de-escalation techniques.”²¹ The order further requires CPD members to “only use the force that is proportional to the threat, actions, and level of resistance offered by a person.”²²

The order emphasizes that CPD members must “use de-escalation techniques to prevent or reduce the need for force, unless doing so would place a person or a [CPD] member in immediate risk of harm, or de-escalation techniques would be clearly ineffective under the circumstances at the time”²³ This requirement includes considering factors such as the risk a person poses,²⁴ and modifying force, “including stopping the use of force when it is no longer necessary.”²⁵ The order explicitly lists “providing warning and exercising persuasion and advice prior to the use of force.”²⁶ CPD members must use de-escalation techniques and only use reasonable, necessary, and proportional force, even if they are otherwise authorized to use force.

Additionally, the Consent Decree and General Order G08-01 define investigative findings and their standards of proof. Reaching an Unfounded finding requires clear and convincing evidence that an allegation is “false or not factual.”²⁷ This is a higher evidentiary standard than the preponderance of the evidence standard to reach Sustained or Not Sustained findings.²⁸ An

¹⁶ Att. 77, G03-02 (II)(C).

¹⁷ Att. 77, G03-02 (II)(C)(2).

¹⁸ Att. 77, G03-02 (III)(B).

¹⁹ Att. 77, G03-02 (III)(B)(1).

²⁰ Att. 77, G03-02 (III)(B)(2).

²¹ Att. 77, G03-02 (III)(B)(2).

²² Att. 77, G03-02 (III)(B)(3).

²³ Att. 77, G03-02 (III)(C).

²⁴ Att. 77, G03-02 (III)(C)(1).

²⁵ Att. 77, G03-02 (III)(C)(2).

²⁶ Att. 77, G03-02 (III)(C)(2).

²⁷ *State of Illinois v. City of Chicago*, Case No. 17-cv-6260, Dkt. No. 703-1 (“Consent Decree”) para. 467(c); G08-01: Complaint and Disciplinary System, (IV)(C)(2)(c). (effective Dec. 29, 2023 to present).

²⁸ Consent Decree, para 467(a), (b); G08-01 (a), (b).

Unfounded finding is distinct from Exonerated, which requires clear and convincing evidence that the conduct occurred but was lawful and proper.²⁹

II. ARGUMENT

A. COPA proved Officer Gardner's use of force was unreasonable and unnecessary, and that she failed to adequately de-escalate.

COPA properly sustained Allegations #1 and #2 against Officer Gardner for the reasons articulated in its FSR. Officer Gardner pushed ██████ when it was unreasonable and unnecessary to do so, and she failed to use adequate de-escalation techniques.

1. Officer Gardner used unreasonable and unnecessary force by pushing ██████

Officer Gardner used objectively unreasonable and unnecessary force against ██████ when she pushed him. Officer Gardner's BWC shows ██████ presented no immediate threat to CPD or CFD members, himself, or other members of the public. Video evidence shows ██████ stood and recorded on a cellphone without interacting with anyone else or interfering with the scene. The scene was unsecured and multiple other people also stood and walked nearby, also using their cellphones. CPD members did not hang yellow crime scene tape around the scene until approximately four minutes after the incident between Officer Gardner and ██████³⁰ Several other CPD members were stationed nearby and did not react to ██████ Officer Gardner's BWC shows ██████ offered no resistance until she pushed him—at which time he put his hands up and stepped backwards.³¹ Officer Gardner continued pushing ██████ as he attempted to back away from her and the scene.

The Superintendent's claim that ██████ struck Officer Gardner is not supported by the video evidence of the incident. However, even if accepted *in arguendo*, this claim does not justify Officer Gardner's use of force and failure to de-escalate *before* ██████ alleged conduct. By pushing ██████ Officer Gardner had already violated CPD policy requiring her to de-escalate and only use reasonable and necessary force. The Superintendent's argument attempts to justify Officer Gardner's conduct by claiming ██████ became an assailant *after* she had violated CPD policy.

2. Officer Gardner failed to de-escalate when she pushed ██████

Officer Gardner also failed to use adequate de-escalation techniques. Officer Gardner's BWC shows that while she did tell ██████ to "get back", she began pushing ██████ almost immediately after doing so.³² The Superintendent's argues that Officer Gardner saying "get back" immediately before pushing ██████ was adequate de-escalation.³³ However, this argument fails for two reasons.

²⁹ Consent Decree, para 467(d); G08-01 (d).

³⁰ Att. 2, at 16:05 to 16:11.

³¹ Att. 26, at 1:06 to 1:13.

³² Att. 26 at 1:04.

³³ The Superintendent's Letter, p. 2.

First, Officer Gardner did not give [REDACTED] time to comply with her order before she pushed him. Officer Gardner's BWC shows [REDACTED] did not appear to notice Officer Gardner speaking to him until she began pushing him. Officer Gardner did not satisfy the requirement to de-escalate by issuing commands without allowing him to comply. Second, as established, Officer Gardner's use of force was unnecessary. Officer Gardner's brief command immediately prior to using unnecessary force does not satisfy her requirement to de-escalate to prevent or reduce the need to use force.

The Superintendent provided no argument as to how de-escalation techniques preventing or reducing the need to use force would have placed anyone in immediate risk of harm or been clearly ineffective. As such, CPD policy required Officer Gardner to de-escalate prior to using force against [REDACTED]. The Superintendent similarly provided no argument as to why it was necessary for Officer Gardner to use force against [REDACTED]. COPA appropriately analyzed Officer Gardner's conduct under CPD policy and found that she failed to de-escalate and used unreasonable and unnecessary force.

COPA notes there is a legitimate public safety and law enforcement interest in keeping the area surrounding an accident and medical response clear from obstruction. However, this interest did not alleviate Officer Gardner's responsibility to follow CPD policy. COPA appropriately found that Officer Gardner pushed [REDACTED] without justification and failed to de-escalate, and the Superintendent failed to show otherwise.

If Officer Gardner believed [REDACTED] was in the way of EMS, she had a full spectrum of de-escalation tactics available to her. Many of these de-escalation tactics are explicitly listed in CPD policy. Instead of using these tactics, Officer Gardner immediately resorted to using force. Officer Gardner's BWC shows she did speak to [REDACTED] but he did not appear to hear or see her until immediately before she began pushing him. Officer Gardner also failed to give [REDACTED] time to comply before pushing him, and she continued pushing him after he attempted to comply.

B. COPA cannot reach the Superintendent's recommended findings of Unfounded.

The Superintendent's recommended alternative findings of unfounded are unsupported by the evidence, as there is no dispute as to whether Officer Gardner pushed [REDACTED]. Officer Gardner's conduct is captured on her BWC,³⁴ she completed a TRR indicating that she used force,³⁵ and she acknowledged using force in her COPA statement.³⁶ The Superintendent presented no evidence or argument suggesting that Officer Gardner's alleged conduct did not occur. However, a plurality of the evidence supports COPA's findings that Officer Gardner pushed [REDACTED] and failed to de-escalate, both in violation of CPD policy. COPA appropriately applied the standards of proof to evidence as required under the Consent Decree. COPA's recommended Sustained findings for Allegations #1 and #2 are more reasonable, and the Superintendent failed to show otherwise.

³⁴ Att. 26.

³⁵ Att. 70, p. 1 to 2.

³⁶ Att. 73, at 7:42 to 8:15. Note: COPA does not have a transcript of Officer Gardner's statement and used the audio recording of her statement in its investigation.

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 findings and recommendations.

Respectfully,

A large black rectangular redaction box covering the signature of LaKenya White.

LaKenya White
Chief Administrator
Civilian Office of Police Accountability