



Brandon Johnson
Mayor

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

Fred L. Waller
Interim Superintendent of Police

July 27, 2023

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

Re: Superintendent's Partial Concurrence and Partial Non-Concurrence with COPA's findings
Log# 2021-0005001
Police Officers Jimenez, Gomez, Lopez, Gutierrez, Mendez, Macias, Wood; Sergeant McGowan,
Lieutenant Irvin, Commander Ward, Commander Watson

Dear Chief Administrator Kersten:

Based on a review of the above-referenced complaint register (CR), the Chicago Police Department (CPD) concurs with the recommended findings and penalty for the below listed members:

NAME	RECOMMENDED PENALTY
P.O. Nino Macias	5 days
P.O. Gregory Wood	5 days

CPD does not concur in whole or in part with the remaining findings and recommendations of discipline. Due to the number of Chicago Police Department members facing allegations of misconduct as related to the above Log #, the Department's responses will be grouped by member below.

By way of review, below is a brief synopsis of the incident that gave rise to the allegations:

On 18 December 2021, at approximately 0007 hours, Officers Gutierrez and Mendez responded to a call of holding the offender¹ at the Jeffrey Pub, located at 7041 S. Jeffrey Blvd. Security related to the responding officers that the offender, [REDACTED] struck one of the security guards in the eye after she was asked to leave the bar.² Security placed [REDACTED] in handcuffs and escorted her out of the bar, where once outside she spat in another guard's eye.³ CPD Officers arrived on scene and placed [REDACTED] into custody on signed complaints. Officer Jimenez arrived on scene with her partner, Officer Macias.⁴ Jimenez responded to the scene in order to search [REDACTED] prior to [REDACTED] being transported to the 003rd District for processing. Beat 371 also responded to the scene and transported [REDACTED] to the 003rd District.⁵ Upon arrival at the 003rd District, Officer Chow and his partner (the transporting officers) walked [REDACTED] into the 003rd District TAC office and handcuffed her to the bench⁶ in the holding room adjacent to the TAC

¹ Att. 121
² Id.
³ Id.
⁴ Att. 173 Pg. 6-7
⁵ Att.121
⁶ Att. 167 Pg. 7 and Pg. 21

office. Officers Gutierrez, Mendez, and Jimenez began processing [REDACTED] arrest and completing other associated reports, while Officers Gomez and Lopez completed other paperwork in the adjoining TAC office. While in the holding cell, [REDACTED] was being loud and disruptive for several minutes and then went quiet. Officer Gutierrez went to the window that looks into the holding cell and observed [REDACTED] kneeling down with her shirt off.⁷ Gutierrez entered the holding cell, removed [REDACTED] t-shirt from her neck, then requested the other officers turn on their cameras, notify their Sgt., Lt., and EMS.⁸ Jimenez un-handcuffed [REDACTED] from the bench. Gutierrez then began CPR, doing chest compressions.⁹ The Chicago Fire Department arrived on scene at 0117 hours¹⁰, took over CPR and transported [REDACTED] to [REDACTED] Hospital. [REDACTED] eventually expired at [REDACTED] Medical Center and was pronounced at 0949 hours.¹¹

Lieutenant Yolanda K. Irvin

The Department does not concur with COPA'S finding that Lt. Irvin failed to ensure the efficiency of operations of the 003rd District Tactical Team Office and its members. In her statement to COPA, Irvin explained that her primary assignment was the District Coordination Office ("DCO") Lieutenant, and that she had been filling in as Tac Lt. for Commander (Lt. at the time) Ward, who was on furlough.¹² On the date of the incident Irvin was off-duty, having started her own furlough.¹³

The charges brought forth by COPA allege Irvin's misconduct "occurred on December 18, 2021 between approximately 12:20 am and 1:08 a.m."¹⁴ Putting aside the fact that Irvin was off-duty at the time of the incident, Irvin related that she'd never entered the TAC office with the obstructed window.¹⁵ As the DCO Lt., Irvin had an entirely separate set of responsibilities, as well as a separate office from which she operated.¹⁶ Irvin was merely providing coverage as the nominal Tactical Lt., in addition to her primary duties as DCO Lt. To expect Irvin to attend completely to her primary duties and order inspections of the Tactical Office does not take into consideration the breadth of her responsibilities and the limited responsibility she had over the tactical team as the interim supervisor.

Officer Jesse Lopez and Officer Servando Gomez

The Department does not concur with COPA's conclusions that Officers Lopez and Gomez failed to timely activate their body-worn cameras ("BWC") and failed to ensure the safety and security of arrestee, [REDACTED]. First, with respect to the allegation of failure to timely activate BWC, as Lopez related in his statement to COPA, he and Gomez came to the Jeffrey Pub solely to provide the arresting officers with a blank complaint.¹⁷ Lopez's BWC captures his arrival on scene, approaching the arresting officers, returning to his vehicle to look for a book, conversing with another officer, and then leaving.¹⁸ Lopez and Gomez did not take part in the arrest; in fact, [REDACTED] was already in custody and in the transport vehicle upon their arrival. COPA points out that the Special Order S03-14 requires the BWC to be activated during an arrest. The order does not require an activation just because an Officer arrives at a location where an arrest has already occurred.

⁷ Att. 169 Pg. 18

⁸ Id. @ Pg. 20

⁹ Id. @ Pg. 22

¹⁰ Att. 196

¹¹ Att. 197

¹² Att. 222 @ Pg. 9

¹³ Id. @ Pg. 7-8, Att. 203

¹⁴ Att. 218

¹⁵ Id. @ Pg. 15

¹⁶ Id. @ Pg. 14

¹⁷ Att. 174 @ Pg. 9

¹⁸ Att. 18

Next, in sustaining the allegation that Lopez and Gomez failed to provide for the safety and security of arrestee ██████ COPA cites to section II of General Order G06-01-002¹⁹, which reads in part "Department members are responsible for the safety and security of persons in their custody..."²⁰ Though Gomez and Lopez were in the TAC office at the same time ██████ was in the holding cell, ██████ was not their arrestee and was not in their custody. The arresting officers were Jimenez, Mendez, and Gutierrez, and those officers were ultimately responsible for the safety of ██████. Notwithstanding this point, it is important to note that once Gomez and Lopez became aware of the medical situation involving ██████ they both immediately intervened, taking turns performing chest compressions on ██████ until EMS arrived.²¹

Officer Stephanie Jimenez

The Department concurs with COPA's finding that Officer Jimenez wore fingernails that were in violation of U04-01(III)(D), in that they extended past her fingertips and the color was not natural, clear or of a conservative artificial tone.

The Department does not concur with COPA'S finding that Officer Jimenez failed to conduct a thorough custodial search of arrestee ██████. In their Summary Report of Investigation ("SRI"), COPA points out that a "live ammunition cartridge" was later found in ██████ jacket.²² COPA concluded that Jimenez violated General Order G06-01-02, Parts II and IV(A)(B). The General Order reads in pertinent part, that an arrestee "will be searched prior to transport and restrained in such a manner as to prevent escape and provide for the safety of the public..."²³ Jimenez's BWC video clearly shows her restraining and searching ██████ prior to her transport. The BWC video also captures ██████ neither wearing nor in possession of her jacket during the transport; Jimenez is also captured not in possession of the jacket. Jimenez performed a custodial search of ██████ on the scene of the arrest. During that search and ██████ subsequent transport, ██████ was not wearing the jacket where the ammunition was found. The jacket is considered personal property that would be searched prior to being inventoried at the District. Jimenez did not fail to perform the search, she was prevented from completing the search of the personal property at the District because of ██████ medical emergency which occurred shortly after the officers and ██████ arrived to the 003rd District.

Officer Stephanie Jimenez, Officer Ricardo Mendez, and Officer Jose Gutierrez

The Department concurs with COPA's conclusion that Officers Jimenez, Mendez, and Gutierrez failed to ensure the safety and security of arrestee ██████. However, the Department does not concur with the proposed penalty of 180 days to separation. Jimenez, Mendez, and Gutierrez have over 160 complimentary awards between them, including (2) Superintendent's Honorable Mentions and (1) Superintendent's Award of Valor. They are hardworking Officers who found themselves in a very tragic situation. One that clearly was unexpected; not a single Officer, from those on-scene at the Jeffrey Pub, to the transporting Officer, as well as those in the 003rd District station, heard ██████ express any suicidal ideations, nor did they receive any information from the Jeffrey Pub security leading them to believe that ██████ was or should be treated as suicidal.²⁴ COPA pointed out that none of the above Officers acted maliciously.²⁵ The recommended penalty of 180 days to separation is extreme, punitive, and not in line with progressive discipline. This recommended penalty appears to be outcome based, and not focused on the actual misconduct. A more appropriate penalty, and one the Department recommends is a 60-day suspension.

¹⁹ COPA SRI 2021-5001 @ Pg. 55

²⁰ General Order G06-01-02 (II)

²¹ Att. 170 @ Pg. 22-22 and Att. 174 @ Pg. 28

²² COPA SRI 2021-5001 @Pg. 57

²³ G06-01-02 Restraining Arrestees

²⁴ See Att.'s 167,169,170,171, 172, 173, 174, 209

²⁵ COPA SRI 2021-5001

Sergeant Anthony McGowan

The Department concurs with the finding that Sgt. McGowan failed to properly supervise the Tactical Officers under his command. The Department does not concur with the proposed penalty of 180 days to separation. McGowan acknowledged that he was aware, for a week, of the paper obstructing a portion of the window that looked into the holding cell in the Tac office.²⁶ As the TAC Sergeant, McGowan, should have removed the paper that was obstructing the window. It must be noted that McGowan had been assigned 003rd District a week prior to the incident occurring. From statements taken by COPA, it is clear the window had been obstructed for a significant amount of time prior to ██████ taking her life. There was ample opportunity for other TAC supervisors to remove the obstruction prior to McGowan's arrival in the 003rd District. Notwithstanding that point, it was incumbent upon Sgt. McGowan to order the Tact officers to remove the paper from the window of the holding cell or to remove it himself.

With this in mind, the penalty recommendation is incongruous to the factual allegations and COPA's findings. Once again, COPA is engaging in outcome based discipline; the tragic outcome of this incident should not dictate the level of discipline. The appropriate discipline should only focus on the misconduct. As such, the Department recommends a suspension of 15 days.

This level of discipline is supported by recommendations made by COPA in CR 2020-0002682. In this recent disciplinary case, two Sergeants (HAMID and POLANEK) who had sustained allegations for failure to supervise were originally give 15 day suspensions each.²⁷

Commander Davina Ward

The Department concurs with COPA'S finding that Commander Ward failed to ensure the efficiency of operations of the 003rd District Tactical Team Office. Ward was off-duty at the time the incident occurred, but had been present in the Tactical Team Office prior to leaving for her furlough at the end of 2021.²⁸ The charges brought forth by COPA allege that Ward's misconduct "occurred on December 18, 2021 between approximately 12:20 am and 1:08 a.m."²⁹ It should be pointed out that the window had been obstructed for some time prior to Ward being named Tactical Lieutenant. While this doesn't absolve Commander Ward, it is important to note as previous supervisors assigned to the Tactical Unit had ample opportunity to remove the obstruction but never did. Similar to Sgt. McGowan, notwithstanding that other supervisors should have removed this paper before then-Lt. Ward arrived as the Tactical Lieutenant in the 003rd District, it was incumbent upon then-Lt. Ward to immediately order the Tact officers to remove the paper from the window of the holding cell or to remove it herself as soon as she saw it.

Although CPD concurs with COPA's findings, the penalty recommendation for then- Lt. Ward is excessive and punitive. 180 Days-Separation for a minor oversight is not in-line with progressive discipline. Again, COPA seems to be recommending disproportionate penalties based solely on outcome. This cannot be the way in which discipline is recommended; the misconduct must be looked at in a vacuum, without any outside factors influencing the recommendation.

²⁶ Att. 201 @ Pg. 17

²⁷ CR 2020-0002682

²⁸ Att. 203

²⁹ Att. 213

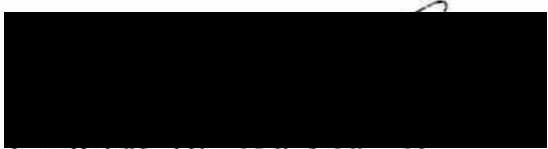
Commander Roderick Watson

The Department does not concur with COPA'S finding that Commander Watson failed to adequately supervise the operations of the 003rd District Tactical Team Office and its members. The charges brought forth against Watson allege the misconduct "occurred on December 18, 2021 between approximately 12:20 am and 1:08 a.m."³⁰

Commander Watson was off-duty on the times listed in the charging sheet.³¹ There was an on-duty tactical Sergeant directly supervising only the Tac team. Commander Watson cannot be expected to Supervise all 003rd District Personnel at all times, most especially when he is off-duty.

The Department concurs with COPA'S finding that Commander Watson failed to ensure inspections of the 003rd District Tactical Office. The penalty recommendation of 180 days to separation for Commander Watson is excessive and punitive.

Though not factually analogous to Commander Ward and Watson's allegations, the penalty recommendation for Commander Papaioannou as related to CR 2020-2228 is instructive. In that case, COPA recommended a 7 day suspension for the Commander's failure to complete a Tactical Response Report ("TRR") following a reportable use of force.³² The case at hand also included Commanders who failed to complete administrative tasks, specifically, ensuring the inspection of the 003rd District Tactical Office. Their actions were not malicious nor intentional. The alleged misconduct, and not the outcome of the event should be considered in determining the appropriate discipline. As such, and when taking into account the sterling complimentary history of both Commander Ward and Commander Watson, the recommended penalty put forth by COPA is excessive and should be greatly reduced; a 7-day suspension for Commander Ward and a 14-day suspension for Commander Watson.



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³⁰ Att. 212

³¹ Att. 206

³² COPA SRI 2020-2228 @ Pg. 8