



Brandon Johnson
Mayor

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

Larry B. Snelling
Superintendent

November 27, 2023

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

Re: Superintendent's Non-Concurrence with Findings and Penalty Recommendation
Complaint Log No. 2021-0003726

Dear Chief Administrator Kersten:

After a careful review of the above referenced complaint log number, the Chicago Police Department (Department) does not concur with both 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 90-day suspension for Field Training Officer John Dalcason # 5392 after concluding that on September 19, 2021, he:

1. Placed his hands around a Citizen's neck without justification;
2. Placed the citizen in a headlock without justification.

The Department does not concur with either sustained finding and recommends a finding of Exonerated for both allegations. It is the Department's opinion that Officer Dalcason did have justification to place his hands on [REDACTED] who had just committed a felony. Given the timeliness of the incident and the hectic scene of a double-homicide, Officer Dalcason's actions, or rather the placement of his hands about [REDACTED] appear to be more unintentional than having intent to administer any type of chokehold or headlock. This is supported by the extremely short amount of time in which Officer Dalcason's hands/arms were about [REDACTED] neck area. It is also supported by the fact that Officer DALCASON quickly moved to other forms of contact about [REDACTED] in attempts to place him in custody.

Allegation #1:

COPA states in its report that "While it may be true that Officer Dalcason did apply pressure to [REDACTED] shoulders while pushing him backwards, the available BWC video recording clearly shows Officer Dalcason's hands encircling [REDACTED] neck as Officer Dalcason pushes [REDACTED] backwards." SRI at page 4. COPA classifies [REDACTED] as an active resistor even though it is not disputed that [REDACTED] pushed Officer Dalcason. The reason given was that [REDACTED] use of force was not sufficient to characterize [REDACTED] as an assailant because a push is not likely to cause physical injury. Officer

Dalcason's response to the allegation was that he intended to reach for ██████ shoulders and made inadvertent contact with ██████ neck. SRI at page 4 citing Att. # 21. Further, Officer Dalcason denied applying any pressure to ██████ neck.

Officer Dalcason did have justification to put his hands on ██████ who was an assailant after he had pushed Officer Dalcason with both hands, then stood his ground (not running away), wide footed, in a fighting stance. ██████ was NOT just a resistor, as stated by COPA; he was clearly an assailant who had just committed an Aggravated-Battery-to-a-Peace Officer, and still posed a threat to Officer Dalcason.

Furthermore, the investigation failed to prove that Officer Dalcason applied any type of pressure, other than to push back about the area, which would be required to be considered a choke-hold during the time in which Officer Dalcason had his hands about the neck/shoulder area of ██████. A "chokehold" as defined in G.O. G03-02, is "applying any direct pressure to the throat, windpipe, or airway of another." A careful review of Officer Dalcason's BWC video, at the precise mark of 5:29, shows that Officer Dalcason placed his hands about ██████. At the 5:31 mark, it is observed that Officer Dalcason's hands are clearly off and away from ██████ neck/shoulder area. As it relates to the use of deadly force, 2 seconds is not a reasonable amount of time from which to believe that someone is attempting to administer deadly force via a choke-hold. Officer Dalcason acknowledged that while attempting to place his hands about the shoulder/collarbone area of ██████ he did place his hands about the neck area unintentionally; further elaborating that one of the reasons why this occurred could have been because of ██████ smaller size in relation to himself. Officer Dalcason further stated that he did not apply any force or pressure to the neck of ██████ other than to push ██████ back about the collarbone area.

It is more reasonable, given the short amount of time, that Officer Dalcason pushed back, as proven by the BWC video and stated by Officer Dalcason, and never applied pressure, as assumed and put forth by COPA. The COPA investigator specifically stated in the closing report, "by placing his hands around ██████ neck, Officer Dalcason applied direct pressure to ██████ windpipe or airway." SRI at page 5. Given the facts, and lack of a direct account from ██████ himself, there is absolutely no way that this allegation could be proven. This statement is completely generalized and assumed, and has no factual basis as the investigator cannot, and did not, prove this in fact occurred. This is heavily supported by the fact that the Office of the State's Attorney, Cook County, Illinois, stated in their Rejection of Charges Letter; "An objective review of the evidence and law demonstrates that the state would be unable to sustain our burden of proof in a criminal case as the use of force by Officer Dalcason was not unreasonable under the totality of the circumstances. Therefore, no criminal charges will be filed in this matter." Att# 23.

Therefore, COPA unequivocally failed to prove the Officer Dalcason used Deadly Force and that he was not justified in having placed his arms about the neck/shoulder area of ██████. Given the totality of the circumstances, the timeliness of the situation (hectic double murder scene), and the preponderance of the evidence, Officer Dalcason was justified in the amount of force used and therefore should be EXONERATED.

Allegation #2:

As it relates to the second allegation of Officer Dalcason having placed ██████ in a headlock without justification, the Department's opinion is that Officer Dalcason had justification to hold ██████ as he was attempting to gain compliance and control of ██████ who continued to resist arrest. Furthermore, it is apparent that Officer Dalcason did not administer a headlock on ██████ but rather, had his left arm around the front area of ██████ chest/neck area. As previously stated, a "head lock," or rather a "chokehold," is defined as "applying any direct pressure to the throat, windpipe, or airway of another."

At the 5:37 mark of Officer Dalcason BWC video, Officer Dalcason's left arm can be seen wrapped around ██████ but not in any type of "lock" which would constitute a head-lock or choke- hold. Officer Dalcason's hand can clearly be seen on ██████ right shoulder, not about his neck, while attempting to gain control of ██████. At the 5:42 mark, it is observed that Officer Dalcason's arm is no longer wrapped around ██████. Given the minimal amount of seconds in which Officer Dalcason had his arm wrapped around ██████ it is more reasonable to believe that he was attempting to gain control of ██████ then attempting to use any type of Deadly Force. Officer Dalcason, in his statement to COPA acknowledged that he did have his arm wrapped around the front of ██████ but not on his neck, and further acknowledged that he did not apply any pressure to ██████ neck.

COPA failed to prove that any type of force or amount of pressure was used by Officer Dalcason while he had his arm around ██████. Officer Dalcason never locked his arm around ██████. COPA in their closing, assumed and generalized their findings without having any proof: "The available BWC video also shows Officer Dalcason reach his arm across ██████ neck, and grip ██████ right shoulder in a headlock position while forcing ██████ from his knees to the ground." SRI at page 5. However, this does not constitute a head lock as Officer Dalcason's hand stops at the shoulder. COPA goes on to state "It is highly likely that by positioning his arm across ██████ neck while applying his weight against ██████ back, Officer Dalcason applied direct pressure to ██████ windpipe or airway again." Id. Again, COPA is clearly making assumptions without having any direct proof or evidence, i.e. interview of ██████ or medical records. Therefore, given the totality of the circumstance, the timeliness of the situation (hectic scene), and the preponderance of the evidence, Officer Dalcason was justified in the amount of force used and therefore should be EXONERATED in relation to the second allegation.

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

Sincerely,

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Larry B. Snelling
Superintendent
Chicago Police Department