



Brandon Johnson
Mayor

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

Fred L. Waller
Interim Superintendent

August 30, 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. 2020-0000502

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 60-day suspension as the penalty for Officer Joseph Lisciandrello # 19362 after concluding that he:

1. Pushed an arrestee without justification;
2. Threatened an arrestee by stating: "Let's do it dude, I go all day. I'll take my belt and everything off" or words of similar effect.
3. Failed to comply with S03-14 by deactivating his body worn camera while engaged in law enforcement activity.

Allegation #2 (Threatening Statements) and Allegation # 3 (Deactivation of BWC)

The Department does concur with COPA's finding of Sustained as to these two allegations but does not concur with the recommended penalty. Considering that Officer Lisciandrello has an impressive complimentary history and no disciplinary history, it is the Department's opinion that it is in the best interest of the Department and the accused member that a lesser penalty of a 5-day suspension be implemented along with additional training on Courtesy and Demeanor during arrest processing. If the purpose of discipline is to correct errant behavior and modify future conduct, then this can be accomplished with this lesser suspension along with the additional training.

Allegation #3 (Pushing the Arrestee)

The Department does not concur with the recommended finding of Sustained for this allegation. This

arrestee was extremely aggressive during the transportation to the police facility. While being transported, the arrestee not only threatened to head-butt an arresting officer but he did actually do so to one of the arresting officers. In the Summary of Evidence, COPA states that "Once inside of the station, Officer Lisciandrello escorted [REDACTED] into the tactical office, while stating "no this way." [REDACTED] responded, "I am going this way," at which time Officer Lisciandrello pushed [REDACTED] causing [REDACTED] to fall into a table and on to the floor injuring his nose." SRI at page 2.

In its Analysis and Conclusion, COPA states that "Officer Lisciandrello reported that [REDACTED] attempted to pull away from him and then charged back as to strike with a head-butt. These actions would likely make [REDACTED] at minimum an active resistor." SRI at page 3. The Department disagrees that the arrestee would be an active resistor. If the arrestee was trying to head-butt the officer, then that would make him 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. The directive further subdivides assailants into two categories. The first category would probably be most applicable to this situation. This category is for assailants whose actions are aggressively offensive with or without weapons. Id. at C-1. When confronted with an assailant in this category, officers are permitted to use those force options authorized for Cooperative Persons and Resistors, as well as additional force options of direct mechanical techniques which are "forceful, concentrated striking movements such as punching, kicking or focused pressure strikes and pressures. These techniques can be combined with take-downs or pins against the ground or other objects." Id. at C-1-a-1.

Officer Lisciandrello's actions were reasonable as the officer was already in fear of receiving a battery due to the verbal threats made by the arrestee. Attachment #6 - Lisciandrello TRR. Lisciandrello further states that "while entering the processing room the subject abruptly pulled away then immediately and aggressively charged back at r/o Lisciandrello who then believing the subject was attempting to deliver another headbutt pushed the subject away in order to create distance and avoid attack at which time the subject fell in to the computer table then from his own momentum onto the floor." ID. COPA goes further to state that the push was problematic because the arrestee "was handcuffed and had no way to arrest any fall that was likely to result from the push." SRI at page 3. However, the Department does not agree that the fall was foreseeable. Lisciandrello did not do a take-down nor did he push the arrestee in an area that would likely result in fall, ie, stairway or on a hill. Nor did Lisciandrello punch or kick the arrestee. The push was to create distance and into a desk and it was not foreseeable that the arrestee would fall to the floor. As such, the Department believes that this allegation should be Not Sustained.

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

Sincerely,

[REDACTED SIGNATURE]

Fred L. Waller
Interim Superintendent
Chicago Police Department