

**BEFORE A MEMBER OF THE POLICE BOARD
OF THE CITY OF CHICAGO**

IN THE MATTER OF THE)	
RECOMMENDATION FOR DISCIPLINE OF)	
SERGEANT JUAN PEREZ,)	No. 21 RR 17
STAR No. 902, DEPARTMENT OF POLICE,)	
CITY OF CHICAGO.)	(CR No. 2019-5126)

REQUEST FOR REVIEW

On November 5, 2021, the Office of the Police Board of the City of Chicago received from the Chief Administrator of the Civilian Office of Police Accountability (“COPA”) a request for review of the Chief Administrator’s recommendation for discipline of Sergeant Juan Perez, Star No. 902, arising out of the investigation of Complaint Register No. 2019-5126 (“Request for Review”).

The investigation stems from searches conducted by a team of officers from the 10th District on October 8, 2019. According to the Summary Report of the Investigation, officers executed a search warrant for firearms and ammunition in [K.F.]’s apartment and recovered large quantities of suspected methamphetamine or ecstasy, for which he was arrested and charged. During the search warrant operation, some of the officers searched [K.F.]’s car and found two firearms in the trunk. Soon after, in the 10th District police station, Sergeant Perez attempted to obtain [K.F.]’s consent to search his car. After [K.F.] refused to give consent, officers seized the firearms from his car. Following the conclusion of the investigation, the Chief Administrator issued a recommendation for discipline of Sergeant Perez. The Superintendent of Police proposed less severe discipline than that recommended by the

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Chief Administrator.

The Chief Administrator recommended that the following allegations against Sergeant Perez be *Sustained*:

1. On October 8, 2019, at approximately 9:30 a.m., at or near 3255 West Lexington Street, Chicago, Sergeant Juan Perez searched [K.F.]’s vehicle without justification;
2. On October 8, 2019, at approximately 9:30 a.m., at or near 3255 West Lexington Street, Chicago, Sergeant Juan Perez seized contents of [K.F.]’s vehicle without justification; and
3. On October 8, 2019, at approximately 9:30 a.m., at or near 3255 West Lexington Street, Chicago, Sergeant Juan Perez misused his body-worn camera in furtherance of a scheme to search [K.F.]’s vehicle and seize contents therein without justification.

The Chief Administrator recommended that Sergeant Perez be discharged from the Chicago Police Department.

The Superintendent objected to the Chief Administrator’s recommendation for discipline. The Superintendent concurred with the sustained findings for Allegation Nos. 1 and 2. Regarding Allegation No. 3, the Superintendent agreed that Sergeant Perez misused his body-worn camera, but did not agree that he did so in furtherance of a scheme to search [K.F.]’s vehicle and seize the contents without justification. The Superintendent recommended that Sergeant Perez be suspended for one-hundred-eighty (180) days.

According to the Certificate submitted by the Chief Administrator: (1) the Chief Administrator issued the recommendation for discipline on June 7, 2021¹; (2) the Chief Administrator received the Superintendent’s written response on September 10, 2021; (3) the Chief Administrator’s designees met with the Superintendent’s designees and concluded their discussion of this matter on October 29, 2021; and (4) the Request for Review was sent via email

¹ According to documentation provided by the Superintendent’s office, the Chicago Police Department received the complaint register investigation file on June 15, 2021.

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to the Executive Director of the Police Board on November 5, 2021.

The Executive Director of the Police Board prepared and forwarded the Request for Review file to Nanette Doorley, the member of the Police Board who was selected on a random basis, pursuant to Article VI of the Police Board's Rules of Procedure ("Reviewing Member"). On November 17, 2021, the Reviewing Member reviewed the Request for Review pursuant to Section 2-78-130(a)(iii) of the Municipal Code of Chicago and Article VI of the Police Board's Rules of Procedure.

OPINION

COPA conducted a thorough investigation, and I agree that Sgt. Perez committed serious misconduct that warrants severe disciplinary action. However, it is my opinion that, based on a thorough review of the Request for Review material, the Superintendent met his burden of overcoming the Chief Administrator's recommendation for discipline. I reach this conclusion for two primary reasons.

First, the facts highlighted by COPA reveal important differences in the respective roles that Sgt. Perez and Lt. Jeffery Schaaf played during the illegal search of [K.F.]'s vehicle and seizure of [K.F.]'s firearms.² Although Sgt. Perez's actions show a lapse in judgment that warrants discipline, his participation was primarily "directed" by Lt. Schaaf. COPA, Summary Report of Investigation, at 22 (June 7, 2021) [hereinafter SRI Log]. Sgt. Perez's actions at issue were not done of his own accord, but were done at his superior's command. *Id.* at 3.

²The Chief Administrator recommended that Lt. Schaaf be discharged from the Chicago Police Department. The Superintendent stated that he would have agreed with this recommendation if Lt. Schaaf had not retired from the CPD.

As COPA notes throughout its Summary Report, Lt. Schaaf “orchestrated” the unlawful vehicle search, the weapons seizure that followed, and the actions of his inferior officers on scene. *See id.* at 22, 23. Lt. Schaaf first located the firearms during his initial search of [K.F.]’s vehicle—a search he performed on his own. *See id.* at 9 (interview of Jeffrey Schaaf), 21. And it was Lt. Schaaf that attempted to justify the vehicle search by falsely claiming that, while other officers were searching the residence (and while Sgt. Perez was in the residence’s living room with [K.F.]), Schaaf “encountered a ‘concerned citizen,’” who allegedly pointed at [K.F.]’s vehicle in the parking lot and “informed Lt. Schaaf that [K.F.] kept firearms in the trunk of the vehicle.” *Id.* at 1.

Following Lt. Schaaf’s first search of the vehicle, he engineered the efforts of other officers “to conduct additional unlawful vehicle searches and weapons seizures undetected, beginning when he directed Officer Collins to tell Sgt. Perez to meet him in the rear of the residence.” SRI Log at 22. “Lt. Schaaf’s next direction was to Sgt. Perez, indicating he should deactivate his BWC prior to their discussion on the porch.” *Id.* *See also id.* at 6 (interview of Juan Perez) (“Sgt. Perez walked onto the rear porch and deactivated his BWC at Lt. Schaaf’s direction.”). At that time, when Lt. Schaaf first told Sgt. Perez about his alleged encounter with the “concerned citizen,” Lt. Schaaf had already obtained the vehicle’s keys from inside the residence and preliminarily searched the vehicle. *Id.* at 6 (interview of Juan Perez). After this conversation, Schaaf walked Perez to the vehicle and showed him the firearms. *Id.* *See also id.* at 27.³ While the two stood near the vehicle, Perez “instruct[ed] several other officers who remained on the porch to go inside.” *Id.* at 8 (interview of Jaime Acosta).

³ This search was captured by Perez’s body worn camera. As COPA notes, this illegal search was likely captured in the body worn camera’s “‘look back’ period, when a BWC in buffering mode is activated to event mode and the camera’s memory automatically saves the preceding 30 to 120 seconds of video without audio.” SRI Log at 28.

Nearly all of Perez’s actions that followed were done at Lt. Schaaf’s command or suggestion. After Perez turned off his body worn camera (initially at Lt. Schaaf’s explicit command), Perez asked Ms. [K.F.] about the location of the vehicle’s keys at “Lt. Schaaf’s direction.” This staged conversation “culminated in Lt. Schaaf’s ‘discovery’ of the keys.” SRI Log at 23.⁴ And after Sgt. Perez was unable to obtain [K.F.]’s consent to search the vehicle (or a warrant to do so), it was again Lt. Schaaf who “made the decision to return to the residence and recover the weapons.” *Id.* at 7 (interview of Juan Perez). As the Superintendent notes in his response, Perez “never opened the trunk of the vehicle and did not remove the weapons [from] the vehicle.” Letter from the Superintendent to the Chief Administrator, at 2 (Sept. 10, 2021) [hereinafter Superintendent Letter]. Rather, Sgt. Perez was merely present when Lt. Schaaf—the “pilot” behind the scheme—did those things. *Id.*

That many of Sgt. Perez’s actions were done at Lt. Schaaf’s direction does not absolve Perez of all responsibility for his misconduct. Indeed, Sgt. Perez deactivated and reactivated his body worn camera, at times of his own volition, “no fewer than seven times, five of which occurred during the initial execution of the warrant.” SRI Log at 27. Moreover, Sgt. Perez directed Officer Brian Collins to deactivate his own body worn camera when he joined Perez and Schaaf in the parking lot near the vehicle. *See id.* at 28. Sgt. Perez clearly misused his body worn camera throughout the search.

That stated, according to COPA, “it is evident Sgt. Perez did not intend to record the video showing him and Lt. Schaaf conducting the illegal search, but intended to conduct that search off-camera.”

⁴ In his interview with COPA, Lt. Schaaf stated that he did not tell Sgt. Perez that Schaaf already had the keys to the vehicle because “It didn’t come up.” SRI Log at 10 (interview of Jeffrey Schaaf). But given the extensive BWC evidence and “the false statements Lt. Schaaf made regarding the concerned citizen and his justification for searching the vehicle, COPA [did] not find Lt. Schaaf’s explanations credible.” *Id.* at 23.

But I disagree with COPA’s characterization that Perez’s conduct (consisting of his “repeated BWC deactivations and reactivations, his order that Officer Collins deactivate his own BWC, and his order that other officers with BWCs go back inside the residence”) “evidence [his] egregious manipulation of the cameras.” *Id.* Instead, and as noted above, these actions primarily show that Sgt. Perez “was following superior orders.” Superintendent Letter at 2. And while it is easy to opine that Perez could have challenged Lt. Schaaf directly or refused to follow Schaaf’s orders, that refusal is not so easy in practice:

That sounds good in the classroom or the comforting environs of an external agency’s office, but to suggest [an officer] somehow could have derailed her Lieutenant’s efforts is to ignore the realities of authority and command within a police department When one’s boss gives direction, that direction is to be followed. The notion of [an officer] openly calling into question her Lieutenant’s direction at the crime scene fits neatly into the latest turn in TV police dramas but falls well short of reality.

Id. at 3 (citing *Chi. Sergeants’ Ass’n, Policemen’s Benevolent Prot. Ass’n (Union) v. City of Chicago*, CR# 2019-0004556). *See also Haynes v. Police Bd. of City of Chi.*, 293 Ill. App. 3d 508, 512-13 (Ill. App. Ct. 1997) (noting that an officer “disobeying an order from a superior” has the potential to “thwart the authority and respect which is the foundation of the effective and efficient operation of a police force”). Following a superior officer’s orders does not immunize an officer from discipline. Indeed, the Superintendent’s proposed 180-day suspension is both severe and appropriate. But that the majority of Sgt. Perez’s actions to be disciplined were done directly at Lt. Schaaf’s behest—rather than of Perez’s own volition to further his own unlawful scheme—provides important context, and, without more, weighs against his discharge.⁵

⁵ The remaining charges relate to Sgt. Perez’s presence during the unlawful searches and seizure of [K.F.]’s firearms. Perez’s actions again were improper, but do not warrant his discharge from the Police Department. *See Superintendent Letter at 2–3* (collecting cases).

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Second, and importantly, Sgt. Perez's complimentary and disciplinary histories are otherwise commendable. Sgt. Perez has received 177 awards (including two Special Commendations and two Superintendent's Awards), and he has no sustained complaints on his disciplinary history in the past five years. SRI Log at 33. Although Sgt. Perez has committed serious misconduct that warrants severe disciplinary action, I do not agree with COPA's characterization that Perez's actions "demonstrate that he has substantial shortcoming that renders his continued employment as a police officer detrimental to maintaining discipline within the Department." A 180-day suspension is appropriately severe for an otherwise admirable officer that participated in an improper search and subsequent seizure and misused his body worn camera.

Therefore, pursuant to Section 2-78-130(a)(iii) of the Municipal Code of Chicago, the Superintendent's response shall be implemented.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 10th DAY OF DECEMBER, 2021.

/s/ NANETTE DOORLEY
Member
Police Board

Attested by:

/s/ MAX A. CAPRONI
Executive Director
Police Board