

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
)
POLICE OFFICER CHAVEZ SILER, STAR No. 7064,) **No. 22 PB 3001-1**
DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
)
POLICE OFFICER COREY BOONE, STAR No. 14847,) **No. 22 PB 3001-2**
DEPARTMENT OF POLICE,)
CITY OF CHICAGO, AND)
)
POLICE OFFICER ROBERT CLARK STAR No. 2755,) **No. 22 PB 3001-3**
DEPARTMENT OF POLICE,)
CITY OF CHICAGO)
) **(CR No. 1084433)**
RESPONDENTS.

FINDINGS AND DECISIONS

On August 25, 2021, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Chavez Siler, Star No. 7068, Police Officer Corey Boone, Star No. 14847, and Police Officer Robert Clark, Star No. 2795 (hereinafter referred to as “Respondents”), recommending that they be discharged from the Chicago Police Department (“Department” or “CPD”) for violating the Department Rules of Conduct. On January 23 – 27, 2023, Hearing Officer Lauren Freeman conducted a hearing on these charges via Zoom video conferencing.

Following this evidentiary hearing, the members of the Police Board read and reviewed the record of the proceedings, including the Hearing Officer’s Report and the Superintendent’s Response to the Hearing Officer’s Report, and viewed the video recording of the entire evidentiary hearing. The Hearing Officer made an oral report to and conferred with the Board before it rendered its findings and decisions.

POLICE BOARD FINDINGS

As a result of its hearing on the charges, the Police Board finds and determines that:

1. Respondents were at all times mentioned herein employed as police officers by the Department of Police of the City of Chicago.
2. A copy of the charges filed, and a notice stating the date, place, and time the initial status hearing would be held, were personally served upon Respondents not fewer than five (5) days before the date of the initial status hearing for this case.
3. Throughout the hearing on the charges, Respondents appeared and were represented by legal counsel.

Introduction

4. On March 15, 2017, Respondent Siler, Respondent Boone, and Respondent Clark were all on-duty and in full uniform working the midnight shift in the 011th District on Chicago's West Side. During this shift, Officer Siler was partnered with Officer Michael Benamon, who was not his usual partner. Officers Boone and Clark were partnered together as usual and working in a marked squad car. Between 1:00 am and 2:00 am, Officer Siler and Officer Benamon visited the Mini-Mart located at 3759 W. Chicago Avenue in Chicago, Illinois. As they were leaving the gas station, the store's security guard, Andre Crout, approached the officers outside. Crout told the officers that a man who previously shot a homeless man a week or two earlier had entered the Mini-Mart that night. Crout indicated that that man, known as Charles Whitehead, might be armed with a handgun in his waistband. Crout also provided a description of Whitehead and the hooded jacket that Whitehead was wearing.

Mini-Mart surveillance camera footage shows much of what occurred during the arrest. Respondent Siler and Officer Benamon re-entered the store and observed that Whitehead had a

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pistol in his front waistband. Whitehead's friends, who had entered the store with him, left the store. The altercation began when Respondent Siler and Officer Benamon approached Whitehead and Respondent Siler told Whitehead to "drop the bag" and "stop." Whitehead did not drop the bag and said, "I ain't gonna move." Officer Siler then tried to grab Whitehead's hands and told Officer Benamon to, "remove it." Officer Benamon attempted to wrap his arms around Whitehead's torso to try to remove the gun.

Whitehead then pulled the officers down the "oil aisle" while trying to pull the gun out of his waistband. Originally, Whitehead yelled, "I ain't got nothin" but then later yelled, "I've got a gun." During this time, both Respondent Siler and Officer Benamon struggled for control of Whitehead's gun while Siler repeatedly told Whitehead to "drop it" and not to move. The struggle for control of Whitehead's weapon continued throughout the store, dislodging groceries from the store's shelves. Respondent Siler grabbed his own gun and pointed it at Whitehead's head. Benamon appeared to disarm Whitehead just before Whitehead slapped his hands briefly on a cooler and Benamon said either "I got it," or "I got him." Whitehead then continued flailing and resisting. Siler used his gun to strike Whitehead in the head approximately two times.

Respondents Clark and Boone were nearby in a marked squad car when they heard Officers Siler and Benamon's emergency radio call for assistance. Clark and Boone quickly went to the Mini-Mart. Respondent Boone entered the store first, followed by Respondent Clark several seconds later. Respondent Boone walked straight to the aisle where Respondent Siler and Officer Benamon were tussling with Whitehead. At this time, Officer Benamon reached over Respondent Siler's left side to hand Whitehead's gun to Respondent Boone. The struggle between Whitehead and Respondent Siler and Officer Benamon continued.

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Whitehead attempted to remove his hooded jacket but got his arm caught in the sleeves.

Whitehead then tried to throw his jacket over Respondent Siler's head.

Whitehead continued to resist Respondent Siler and Officer Benamon and the struggle continued throughout the store. The officers eventually took Whitehead to the floor in the rear of the store and commanded Whitehead to put his hands behind his back. Respondent Siler again struck Whitehead in the head and face approximately five times with Siler's gun. While Respondent Siler was hitting Whitehead with the gun, Respondent Boone was standing behind the kneeling officers. It is unclear from the surveillance video whether Respondent Boone could see Respondent Siler hitting Whitehead because his view could have been blocked by the officers in front of him. While the officers struggled to handcuff Whitehead, Siler again held his gun to Whitehead's head and asked if anyone had a taser. Respondent Boone responded, "I've got a Taser, I got the gun though." Boone subsequently handed the recovered gun to Respondent Clark and stepped over Whitehead so he was in a better position to use his Taser. Respondent Siler held his gun to Whitehead's head, and Respondent Clark moved to the front of the group, crouched over, and displayed his expandable baton to Whitehead. The officers held one of Whitehead's arms behind his back when Respondent Siler asked Respondent Boone to "tase him in the face." Respondent Boone instead used the Taser in drive-stun mode to tase Whitehead in Whitehead's back. The first stun did not seem to affect Whitehead. Respondent Siler asked Respondent Boone to "hit him again." Boone drive-stunned Whitehead again. Whitehead screamed, groaned several times, and stopped moving. Respondent Siler asked Respondent Boone to "hit him again" once more. Boone did not do so. The officers were then able to handcuff Whitehead. Whitehead was bleeding from his head onto the floor.

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Though Respondent Boone reported his Taser deployment in a Tactical Response Report, neither Respondent Clark nor Respondent Boone reported that any excessive force was used by any of the officers during Whitehead's arrest. Respondents later each gave an official statement to Civilian Office of Police Accountability (COPA) investigators concerning the incident which were admitted into evidence at the Hearing.

During the Hearing, each Respondent testified both adversely and on their own behalf. Additionally, Michael Gennaco testified on behalf of the Superintendent as a use-of-force expert, John Farrell on behalf of the Respondents as a use-of-force expert, Andre Crout on behalf of the Respondents, Charles Whitehead on behalf of the Respondents, as well as several mitigation witnesses for Respondents.

In brief, Respondent Siler testified that he attempted to grab Whitehead's hands to prevent Whitehead from grabbing the gun from Whitehead's waistband. After a continued struggle, Whitehead pushed Siler into the shelves and Siler lost his grip on Whitehead's gun. Siler was not wearing his baton, so he pulled out his own gun, and pointed it at a close range to Whitehead's head because he feared for his and his partner's life. Officer Siler testified his finger was never on the trigger guard and was always on the slide. Siler also testified he did not see Officer Benamon reach high over Siler's head to hand Whitehead's gun to Respondent Boone as Siler was focused on Whitehead. Siler believed he did not pull his arm all the way back before striking Whitehead with the gun and did not use all of the force he could have. He used his strikes as more of a stunning technique. Siler also testified that he never believed Officer Boone would actually tase Whitehead in the face but used that request as an empty threat to get Whitehead to stop resisting and comply. He testified that he never heard Benamon or Boone state that they had the gun because all of his attention was focused on Whitehead.

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Officer Boone testified that he did not see Respondent Siler strike Whitehead with Siler's pistol or place Siler's weapon to Whitehead's head. Boone's view was blocked by other officers in front of him who were larger than Boone and struggling with Whitehead, and all he saw was Siler's arm moving back and forth. Although Boone moved to the side of the other officers in order to use his Taser and was then facing Siler and Benamon, he testified he was focused on pulling out the Taser, turning it on, dropping to a knee, and looking for a place to tase Whitehead safely without an officer's arm being in the way.

Officer Clark also testified during the Hearing. Clark testified that he believed it was a deadly force situation in that Whitehead would use deadly force against the officers if given the chance. Clark believed that Siler was pointing his gun at Whitehead's head because Siler and his fellow officers were in danger. Clark testified he was not trained in the Academy that officers were prohibited from pointing a gun at a suspect's head and did not believe that Siler used excessive force by pointing his gun at Whitehead. Likewise, he did not believe that Boone used excessive force by tasing Whitehead. He therefore had no reason to intervene during the incident or to report that Siler or Boone committed misconduct.

Charles Whitehead was also called by Respondents. In summary, Whitehead testified that he was high on ecstasy and marijuana when the officers walked up to him and told him to stop. Whitehead had a gun in his waistband and admitted he tried to get rid of it so that the police would not find it on him. Some of Whitehead's testimony was inconsistent with the surveillance video footage, including: that Whitehead just let the officer grab the gun but the officers started hitting him in the face; one of the first two officers that approached him also tased him in the lip area and in the neck; and that Whitehead never resisted the officers and obeyed all their commands. After he was taken into custody, Whitehead spent approximately a

week in the hospital, received stitches under his eye, and wore a neck brace for about a month. Whitehead admitted that when he was interviewed by COPA investigators in 2019, he lied and told them that one of his “homies” had put the gun by the chips and that Whitehead had grabbed it. He also told the investigators that he had tried to run away from the police but admitted that was not true.¹

Andre Crout was also called by Respondents and provided testimony regarding what he witnessed, including the officers’ struggle with Whitehead and how Whitehead kept pushing the officers away as they fought for control of his gun.

Michael Gennaco provided expert use of force testimony on behalf of the Superintendent. Gennaco testified that Whitehead was initially an armed, level 2 assailant. Once Benamon disarmed Whitehead, his threat level dropped to that of an active resister up until he was handcuffed. Gennaco testified that if Siler had not seen Benamon disarm Whitehead, he would still reasonably believe Whitehead was a level 2 assailant. Gennaco found that Respondent Siler’s use of his gun as a blunt-force instrument to strike Whitehead’s head and face during the arrest, and placing his gun to Whitehead’s head, were not consistent with CPD’s General Orders (G.O.s). In Gennaco’s opinion, Siler’s use of his handgun to strike Whitehead in the head was universally known to constitute “deadly force” although Gennaco testified both that the G.O.s at that time did not specifically prohibit such actions and he did not know whether CPD officers were trained accordingly. Gennaco further testified, that in his opinion, Siler’s request to Boone to tase Whitehead in the face was punitive, inappropriate, and

¹ Respondents also introduced six certified copies of Charles Whitehead’s prior felony convictions (Respondent’s Join Exhibit 15) only for the purpose of impeaching Whitehead’s credibility. One of the convictions, Whitehead’s 2021 robbery conviction (Respondents’ Joint Exhibit 15-C) was also admitted to show Whitehead’s violent character in accordance with *People v. Lynch*, to support the Respondents’ version of events rather than Whitehead’s version.

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not intended to control Whitehead. Gennaco also opined that although Respondent Boone was authorized by the CPD G.O.s to tase Whitehead as an active resister, the manner in which Respondent Boone deployed his Taser, in drive-stun mode, was not in keeping with the Department's guidelines. However, Gennaco testified that the G.O.s did not prohibit the use of a Taser in drive-stun mode.

John Farrell, a retired police officer who was with CPD for 42 years, testified as a use-of-force expert on behalf of Respondents Siler and Boone. Farrell now works as a Field Representative for the Fraternal Order of Police and trains officers in handling deadly force situations. Farrell explained Whitehead was an armed level 2 assailant, and Siler would have continued to believe this if he had not seen Benamon recover Whitehead's gun. Farrell testified that both Respondents Siler and Boone acted reasonably during the entirety of Whitehead's arrest. Farrell reasoned that, at that time, there were no Department G.O.s prohibiting the actions taken by either officer nor were there policies discouraging those actions. Farrell did not agree with witness Gennaco's contention that Siler's actions constituted deadly force. Farrell opined that the combination of Siler's and Boone's actions enabled the officers to eventually get Whitehead under control.

At the time of this incident, there were no CPD G.O.s prohibiting the use of a firearm as an impact weapon. Under G.O. 03-02, entitled "Use of Force Guidelines," Department members will use the amount of force reasonably necessary based on the totality of circumstances, to effect an arrest or control a subject. G.O. 03-02-02 entitled "Force Options" provided, in part, that impact weapons and direct mechanical strikes could be used against both unarmed and armed assailants, "to establish control by means of applying mechanical impact to a subject in order to disable elements of his or her skeletal structure." The G.O. also provided

that Department members should “avoid the use of flashlights, radios, or any item not specifically designed as a defensive weapon if a baton is reasonably available.” Additionally, the G.O. allowed Tasers to be used against “active resisters” and did not expressly prohibit using Tasers in drive-stun mode.

G.O. 03-02-03 entitled “Deadly Force” (Superintendent’s Exhibit No. 1-B) provides parameters for when a Department member is authorized to use force likely to cause death or great bodily harm if he reasonably believes such force is necessary. The G.O. specifically prohibits a member from using their firearm in certain ways, even if deadly force is warranted. The G.O. does not specifically prohibit a member from using their service weapon as an impact weapon or striking someone in the face with a weapon.

Charges Against the Respondents

5. Police Officer Chavez A. Siler, Star Number 7068, is **guilty** of violating Rules 2, 6, 8, 9, and 38, in that the Superintendent proved by a preponderance of the evidence the following charges set forth in Specification No. 1:

On about March 15, 2017, at approximately 1:56 a.m., while on duty, at a Mini-Mart located at 3759 W. Chicago Avenue in Chicago Illinois, Police Officer Chavez A. Siler, while attempting to place Charles Whitehead under arrest, repeatedly struck Charles Whitehead on his face and/or his head with his firearm and/or aimed his firearm directly against Whitehead’s head after Whitehead had already been disarmed. Whitehead did not kick, punch, or physically attack Officer Siler or Officer Michael Benamon. Even after Whitehead was on the ground, Officer Siler continued to strike Whitehead on the face and/or head with a firearm, and/or point a firearm against his head, and/or asked assisting officers to tase Whitehead in the face. Officer Siler thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department;
- b. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, in that he disobeyed CPD General Order G-03-02;

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- c. Rule 8, which prohibits disrespect to or maltreatment of any person while on or off duty; and
- d. Rule 9, which prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty;
- e. Rule 38, which prohibits unlawfully or unnecessarily use or display of a weapon.

See the findings set forth in Section No. 4 above, which are incorporated here by reference. The Chicago Police Department G.O.s in effect at the time of this incident provide the framework for determining whether the use of force, including deadly force, was reasonably necessary. The G.O.s, in pertinent part, state that officers may “use an amount of force reasonably necessary based on the totality of the circumstances to . . . protect themselves or others from injury.” (Gen. Order G03-02, par. III. B.) This G.O.’s language is taken directly from *Graham v. Connor*, 490 U.S. 386 (1989), in which the United States Supreme Court held that an officer’s use of force will be judged based on whether it was “objectively reasonable in light of the particular circumstances faced by the officer.” (*Id.*, par. III.C.) In *Graham*, the Supreme Court explained:

The “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain, and rapidly evolving - about the amount of force that is necessary in a particular situation.

Id. at 396. The subjective views of the individual officer involved are not relevant; good intentions do not forgive the use of unreasonable force. *Id.* at 397.

The Board finds Officer Siler’s initial use of his gun to strike Whitehead on his head and aim the gun directly against Whitehead’s head was justified.

There is no dispute that Whitehead was an armed level 2 assailant up until he was disarmed, and had Siler not realized Whitehead was disarmed, it was reasonable for Siler to

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still believe and treat Whitehead as a level 2 assailant. Under CPD's use-of-force policy, an officer dealing with any type of assailant (armed or not) is permitted to use impact weapons to establish control. *See* G03-0303 ("impact weapons are designed to establish control by means of applying mechanical impact to a subject in order to disable elements of his or her skeletal structure.")

The Board finds Siler's gun qualifies as an impact weapon here, even if Siler used the gun to point at or strike Whitehead's head. While a baton should be an officer's primary impact weapon if it is reasonably available, Siler did not have his baton on him because it was broken at the time. Siler therefore used the weapon that he had on him, his gun.

Further, Respondent Siler's use of his gun to both point at and strike Whitehead's head and/or face was not inconsistent with any aspect of CPD policy at the time: there was no language in the G.O.s and officers were not otherwise taught in the academy that firearms could not be used as impact weapons, or that they were prohibited from pointing at or striking the facial area or head with an impact weapon.

The Board also finds that Respondent Siler was utilizing his gun as an impact weapon for the proper purpose of establishing control and disabling Whitehead, who was continuing to resist, rather than for improper, punitive purposes. The Board watched the surveillance video footage and finds Respondent Siler was not winding up or extending his arm back far between strikes or otherwise trying to strike Whitehead with as much force as Siler could. Instead, Siler's hits were concentrated striking movements employed in an attempt to increase control, consistent with a "stun" technique, as Respondent's expert, John Farrell, explained in his testimony. Siler was using force, but this force was not excessive. Relatedly, the Board finds these strikes did not rise to the level of deadly force. The Board is not persuaded by Mr.

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Gennaco's expert testimony that, in his experience, such strikes were universally recognized as deadly force at the time of this incident. Neither the G.O.s nor the CPD training academy curriculum reflected this concept at the time.

Respondent Siler was using the only impact weapon that was available to him at the time and he was using it in the safest manner he could—Siler's hand was not in the trigger area and he kept the gun as close to Whitehead as he could to reduce any risk of accidentally shooting the other officers.

The Board further finds that Officer Siler's strikes continued to be justified even after Whitehead was disarmed. The Board saw and heard the video footage and finds Siler's testimony credible that he did not see in real time that Officer Benamon secured the gun from Whitehead and handed off Whitehead's gun to Boone. Even the Superintendent's use of force expert testified that if Siler did not see the exchange of the gun, it would have been reasonable for Siler to still treat Whitehead as a level 2 assailant – which, as explained above, permits the use of an impact weapon.

The majority² finds that there did come a time, however, when Officer Siler's strikes were no longer justified, even if he believed Whitehead was still armed. This time came when Whitehead's hands were stuck in his jacket. Once Whitehead's arms were stuck, Respondent Siler had a window of opportunity, and therefore an obligation under GO 03-02-02, to de-escalate. At that moment, continuing to strike Whitehead was no longer necessary.

Unfortunately, Siler decided not to take that opportunity to de-escalate. Instead, he continued

² As described below, Board Members Foreman, Block and Dooley do not believe that the continued use of force by Respondent was unjustified. To the contrary, Board Members Foreman, Block and Dooley find that the continued use of force was objectively reasonable under the circumstances.

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striking Siler with his gun despite no longer having lawful justification to do so. What was once an appropriate level of force for the situation was now excessive.

Because the majority finds Officer Siler's use of force was no longer justified when he continued to strike Whitehead with Siler's gun after Whitehead's hands were stuck in his jacket, he is guilty of violating Rule 8 (and as a result, Rule 2), which prohibits the use of any excessive force.

The Board³ further finds Officer Siler's statements to Boone to "tase [Whitehead] in the face" constitute verbal maltreatment and also independently violate Rule 8 (and as a result, Rule 2). The Board is not persuaded by Siler's reasoning that his statements were appropriate because he only meant this as an empty threat and that he expected Officer Boone to know this and not actually comply with Siler's directive. The Board reviewed the surveillance video and remains skeptical that Siler's repeated directives to Boone were in fact intended only to serve as empty threats. Regardless, Siler's statements to Boone to "tase [Whitehead] in the face"—an action that would be inconsistent with training and guidance to avoid sensitive areas like the face when deploying a taser—were inappropriate, unnecessary, and disrespectful. To be clear, the Board acknowledges the difficult and stressful situation Officer Siler faced in trying to subdue a resistant Whitehead. Nevertheless, Chicago police officers are expected to treat all individuals with respect. A police officer has a duty to remain professional, even when pushed. Officer Siler's disrespectful comments brought discredit upon the Department, and therefore violate Rules 8 and 2.

³ Board Members Foreman, Block and Dooley join the majority in believing Respondent's statement to "tase [Whitehead] in the face" constitutes verbal maltreatment.

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Given the above findings, Officer Siler is also guilty of Rule 9, which prohibits engaging in any unjustified verbal or physical altercation. While the altercation started out justified, Officer Siler ultimately engaged in both verbal and physical actions that were unnecessary, excessive, and disrespectful. Siler's initial justified actions cannot excuse his later unjustified actions.

In addition, because the majority⁴ finds Officer Siler used excessive force in violation of CPD's use-of-force policy by continuing to strike Whitehead after his hands were stuck in his jacket, Officer Siler is clearly guilty of Rule 6 (which charges Siler with disobeying CPD's use-of-force policy).

Finally, the majority also finds Officer Siler guilty of Rule 38 (unlawful or unnecessary use or display of a weapon) due to his unnecessary and unjustified use of his gun to continue to strike Whitehead.

6. Police Officer Corey T. Boone, Star Number 14847, is **not guilty** of violating Rules 2, 6, 8, 9, and 38, in that the Superintendent did not prove by a preponderance of the evidence the follow charges set forth in Specification No. 1:

On about March 15, 2017, at approximately 1:56 a.m., while on duty, at a Mini-Mart located at 3759 W. Chicago Avenue in Chicago Illinois, Officer Corey T. Boone, discharged his taser at or in the direction of Charles Whitehead while Whitehead was on the ground, and/ or in a prone position, and/or while Officers Michael Benamon and/or Chavez Siler were kneeling and/or applying pressure to Whitehead's back and/ or body. Whitehead was not fighting back against the officers. Officer Boone thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department;

⁴ As described below, Board Members Foreman, Block and Dooley do not agree with the majority's opinion that the Respondent's use of physical force was unjustified.

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- b. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, in that he disobeyed CPD General Order G03-02;
- c. Rule 8, which prohibits disrespect to or maltreatment of any person while on or off duty; and
- d. Rule 9, which prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty;
- e. Rule 38, which prohibits unlawfully or unnecessarily use or display of a weapon.

See the findings set forth in Section Nos. 4-5 above, which are incorporated here by reference.

The Superintendent has failed to prove the charges set forth in this specification as they are written. G.O. G03-02 sets forth CPD's use-of-force policy. It states in part that officers "may only use force that is objectively reasonable, necessary, and proportional." In determining whether the use of force is objectively reasonable, the totality of the circumstances must be taken into account. G.O. 03-02-02 entitled "Force Options" allows Tasers to be used against "active resisters" and "assailants," and does not expressly prohibit using Tasers in drive-stun mode. Officers are required to use de-escalation techniques when it is safe and feasible to do so, which include utilizing "time, distance, or positioning" to isolate or contain a subject.

The Board finds that the use of force used by Officer Boone was appropriate, given the circumstances. The officers were struggling to handcuff Whitehead when Officer Boone used his Taser. The first time Boone tased Whitehead he tased Whitehead in his back, which did not affect Whitehead. The second time Officer Boone tased Whitehead he stopped moving and the officers were then able to handcuff Whitehead. Although Officer Boone was asked to tase Whitehead a third time, Boone did not do so. The Board finds that Officer Boone used the required de-escalation technique to isolate the subject and did not use excessive force during the arrest. Officer

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Boone's use of force was proportional to the threat and was objectively reasonable. We conclude that the Superintendent has not met his burden on the charges in Specification No. 1.

7. Police Officer Corey T. Boone, Star Number 14847, is **not guilty** of violating Rules 2, 5, and 22, in that the Superintendent did not prove by a preponderance of the evidence the follow charges set forth in Specification No. 2:

On about March 15, 2017, Officer Corey T. Boone failed to report Officer Chavez Siler's and/or Officer Michael Benamon's use of excessive force against Charles Whitehead. Officer Boone knew that Whitehead had already been disarmed at the time that Officer Siler was pistol-whipping Whitehead in the face and/or head and/or aiming his firearm directly against Whitehead's head. Officer Boone thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department;
- b. Rule 5, which prohibits failing to perform any duty; and
- c. Rule 22, which prohibits failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department.

See the findings set forth in Section Nos. 4-6 above, which are incorporated here by reference. We conclude that the Superintendent has not met his burden on the charges in Specification No. 2. Boone testified that he did not see Officer Siler strike Whitehead with Officer Siler's pistol or place Officer Siler's weapon to Whitehead's head. Officer Boone stated his view was blocked by other officers in front of him who were larger than Officer Boone and struggling with Whitehead. Officer Boone did not know that Siler had a gun in his hand and testified he could only see Siler's arm moving back and forth but could not see more. He could not tell if Officer Siler was hitting him or using his arm to brace himself or maintain balance. The Board viewed the surveillance video footage and finds Boone's testimony credible—from his position, Boone may not have seen exactly what was taking place. To this

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effect, Officer Boone did not report that Respondent had used excessive force because, from his perspective, he had not seen Siler use any. Although Boone saw the surveillance video footage at the police station and saw how Siler used his gun during the arrest, Boone also saw supervisors reviewing the surveillance video footage and assumed that if they had come to a different conclusion and felt Siler had used excessive force used during the arrest, they would report it.

Based on this testimony and the surveillance video footage, the Board finds Officer Boone did not violate Rules 2, 5, or 22. We conclude that the Superintendent has not met his burden on the charges in Specification No. 2.

8. Police Officer Corey T. Boone, Star Number 14847, is **not guilty** of violating Rules 2 and 5, in that the Superintendent did not prove by a preponderance of the evidence the follow charges set forth in Specification No. 3:

On about March 15, 2017, at approximately 1:56 a.m., while on duty, at a Mini-Mart located at 3759 W. Chicago Avenue in Chicago Illinois, Officer Corey T. Boone, knowing that Whitehead had already been disarmed, failed to intervene and/or failed to stop Officer Siler who was pistol-whipping Whitehead in the head and/or face and/or was pointing his firearm directly against Whitehead's head. Officer Boone thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department;
- b. Rule 5, which prohibits failing to perform any duty.

See the findings set forth in Sections Nos. 4-7 above, which are incorporated here by reference. As laid out in Section 7 above, the Board credits Officer Boone's testimony that his view was blocked, and he did not know that Officer Siler was striking Whitehead in the head and/or face and was pointing his firearm directly against Whitehead's head. Officer Boone adequately performed his duties to protect the citizens of Chicago and his fellow officers. For

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the same reasons enunciated above, the Board finds that Officer Boone did not violate Rules 2 or 5. The Superintendent has not met his burden on the charges in Specification No. 3.

9. Police Officer Corey T. Boone, Star Number 14847, is **not guilty** of violating Rules 2 and 14, in that the Superintendent did not prove by a preponderance of the evidence the follow charges set forth in Specification No. 4:

On about October 15, 2018, and/or October 7, 2019, Officer Corey T. Boone made one or more false, misleading, and/or inaccurate statements related to the arrest of Charles Whitehead on or about March 15, 2017, during an interview with the Civilian Office of Police Accountability. Specifically, Officer Boone denied that he witnesses Officer Siler strike Charles Whitehead's face and/or head with a firearm or made statements to that effect. Officer Boone also denied that he witnessed Officer Siler point his firearm directly against Charles Whitehead's head or made statements to that effect. Officer Boone made these statements and/or denials despite being in close proximity to Officer Siler when it happened and/or having a clear visual focus on the struggle between Officer Siler and Whitehead. Officer Boone thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department; and
- b. Rule 14, which prohibits making a false report, written or oral.

See the findings set forth in Sections 4-8 above, which are incorporated here by reference. The Board finds that Officer Boone did not make a false report, written or oral. Respondent Boone's hearing testimony closely mirrored his statements to the COPA investigators. During the COPA interview, Officer Boone denied that he witnessed Officer Siler strike Whitehead's face and/or head with a firearm or made statements to that effect. He also denied seeing Officer Siler point his firearm directly against Whitehead's head. During Officer Boone's hearing testimony, he stated he did not see Officer Siler strike Whitehead in the face with a pistol, consistent with the COPA interview. As explained above, the Board viewed the surveillance video footage and finds Boone's testimony credible. The Board has no

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reason to believe Officer Boone made a false or misleading oral report. We conclude that the Superintendent has not met his burden on the charges in Specification No. 4.

10. Police Officer Robert J. Clark, Star Number 2795, is **not guilty** of violating Rules 2, 5, and 22, in that the Superintendent did not prove by a preponderance of the evidence the follow charges set forth in Specification No. 1:

On about March 15, 2017, or on any subsequent date, Officer Robert J. Clark, failed to report Officer Siler's and/or Officer Benamon's use of excessive force against Charles Whitehead. Officer Clark knew that Whitehead had already been disarmed at the time that Officer Siler was pistol-whipping Whitehead in the face and/or head and/or aiming his firearm directly against Whitehead's head. Officer Clark thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department;
- b. Rule 5, which prohibits failing to perform any duty; and
- c. Rule 22, which prohibits failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department.

See the findings set forth in Sections 4-9 above, which are incorporated here by reference. Officer Clark performed his duties consistent with Department's policies and goals. Officer Clark reasonably believed he was involved in a deadly force situation. He knew Officer Siler to be an experienced officer and testified credibly that he did not see Siler strike Whitehead in the head with Siler's gun. He believed Siler was pointing his gun at Whitehead's head because Siler and Siler's fellow officers were in danger. Officer Clark testified that he was not trained in the Academy that officers were prohibited from pointing a gun at a suspect's head, nor did he believe Officer Siler or Officer Boone used excessive force. He therefore did not report Officer Siler's or Officer Boone's potential misconduct because he believed they acted properly—he genuinely and reasonably believed that the situation warranted the use of

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deadly force. The Board finds Clark's testimony credible. We conclude that the Superintendent has not met his burden on the charges in Specification No. 1.

11. Police Officer Robert J. Clark, Star Number 2795, is **not guilty** of violating Rules 2 or 5 in that the Superintendent did not prove by a preponderance of the evidence the following charges set forth in Specification No. 2:

On about March 15, 2017, at approximately 1:56 a.m., while on duty, at a Mini-Mart located at 3759 W. Chicago Avenue in Chicago Illinois, Officer Robert J. Clark, knowing that Whitehead had already been disarmed, failed to intervene and/or failed to stop Officer Siler who was pistol-whipping Whitehead in the head and/or face and/or was pointing his firearm directly against Whitehead's head. Officer Clark thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department;
- b. Rule 5, which prohibits failing to perform any duty; and

See the findings set forth in Sections 4-10 above, which are incorporated here by reference. As stated above, Officer Clark adequately performed his duty to protect the citizens of Chicago and his fellow officers. Officer Clark believed that the officers were in danger, and it was a deadly-force situation. Officer Clark chose not to intervene, but instead display his baton and make eye contact with the subject. Officer Clark testified that, in his opinion, intervening would have made the situation even more dangerous and would have interfered with the efforts of all the officers to secure Mr. Whitehead in handcuffs. Based on this information and our review of the surveillance footage, we believe Officer Clark's actions were reasonable, given the circumstances. We conclude that the Superintendent has not met his burden on the charges in Specification No. 2.

12. Police Officer Robert J. Clark, Star Number 2795, is **not guilty** of violating Rules 2 or 14 in that the Superintendent did not prove by a preponderance of the evidence the follow charges set forth in Specification No. 3:

On about July 2, 2019, and/or January 5, 2021, Officer Clark made one or more false, misleading, and/or inaccurate statements related to the arrest of Charles Whitehead on about March 15, 2017, during an interview with the Civilian Office of Police Accountability. Specifically, Officer Clark denied that he witnessed Officer Siler strike Charles Whitehead's face and/or head with a firearm or made statements to that effect. Officer Clark also denied that he witnessed Officer Siler use excessive force against Whitehead or stated words to that effect. Officer Clark made these statements and/or denials despite being in close proximity to Officer Siler when it happened and having a clear visual focus on the struggle between Officer Siler and Whitehead. Officer Clark thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department;
- b. Rule 14, which prohibits making a false report, written or oral.

See the findings set forth in Sections 4-11 above, which are incorporated here by reference. The Board holds that Officer Clark's statements to COPA investigators were not false. During Officer Clark's first COPA interview, the investigator asked whether Officer Clark saw Officer Siler hit Whitehead with his firearm. Officer Clark responded that he did not. During his second COPA interview, the COPA investigator showed Officer Clark the video and asked if he recalled seeing Officer Siler strike Mr. Whitehead with his pistol, not from the video, but in person. Officer Clark responded that he did not recall seeing Officer Siler strike Mr. Whitehead with his pistol. Officer Clark stated that "there's no way, first of all, that I would have any knowledge that it was his pistol that was in his hand, Officer Siler's, and I'm looking right at his back, therefore, I couldn't tell you that there's any possibility I'd be able to see the physical striking with any object on the subject." Superintendent. Ex. 7. The

COPA investigator also asked Clark if he believed excessive force was used. Officer Clark responded no.

During the Hearing, Officer Clark stated that he did not see Officer Siler striking Whitehead with his firearm. He stated that he was standing several feet behind the other officers and only had a view of the officers' backs. He was asked when he walked around to the front if he saw Officer Siler striking Whitehead with the firearm. Officer Clark answered he did not, as he was trying to navigate not stepping on anyone and attempting to position himself in a way so he could see what was going on. Officer Clark admitted that he saw Officer Siler point the gun at Whitehead's head. However, he stated he did not report it as excessive force because he believed it was still a deadly force situation when the action occurred and therefore was not excessive.

The Board finds that Officer Clark did not make a false report. The Board viewed the surveillance video footage and believes Clark very well may not have seen Officer Siler strike Mr. Whitehead with his firearm. The Board concludes that the statements made during the COPA interviews and hearing were both consistent and were not proved false. Therefore, Officer Clark did not violate Rules 2 or 14. We conclude that the Superintendent has not met his burden on the charges in Specification No. 3.

Disciplinary Action for Respondent Siler

13. The Police Board has considered the facts and circumstances of the conduct of which it has found Officer Siler guilty, and the evidence Respondent Siler presented in his defense and mitigation.

Respondent offered in mitigation evidence of his involvement in the community and awards. Officer Siler has a strong record in the CPD as he has received 35 total awards, which

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include, 2009 and 2019 Crime Reduction Awards, two Attendance Recognition Awards, two Complimentary Letters, three Department Commendations, 13 Honorable Mentions, a NATO Summit Service Award, a 2008 Presidential Election Deployment Award, and a Life Saving Award. Officer Siler is also heavily involved in the 011th District community. Respondent Siler is actively involved in coaching for a youth baseball league, in the program After School Matters, works part time as a security guard at Westinghouse High School, and coached the high school's Junior Varsity baseball team until the onset of Covid. The Board has considered these mitigation factors thoroughly.

Nevertheless, Respondent's accomplishments and positive evaluations of character do not fully mitigate the seriousness of his misconduct. Officer Siler failed in his duty to remain professional during his encounter with Whitehead and violated Department rules and policy. While the Board understands that Officer Siler was faced with a challenging situation, the majority of this Board finds that Respondent used excessive force when he continued to hit Whitehead with his gun in the head after Whitehead's hands were stuck in his jacket. Moreover, the Board unanimously finds that Officer Siler blatantly violated Rule 8 when he disrespected Whitehead by directing Officer Boone to "tase him in the face" multiple times. Respondent's disrespectful, threatening conduct directed at Whitehead has brought discredit upon the Chicago Police Department and undermined its mission.

Based on the circumstances of Officer Siler's conduct and the evidence he presented in mitigation, the Board finds that a suspension of six (6) months is appropriate disciplinary action based on the facts of his particular case.

POLICE BOARD DECISION

The members of the Police Board of the City of Chicago hereby certify that they have read and reviewed the record of the proceedings, viewed the video recording of the entire evidentiary hearing, received the oral report of the Hearing Officer, and conferred with the Hearing Officer on the credibility of the witnesses and the evidence. The Police Board hereby adopts the findings set forth herein by the following votes.

Respondent Siler

By votes of 7 in favor (Ghian Foreman, Paula Wolff, Steven A. Block, Mareil  B. Cusack, Nanette Doorley, Michael Eaddy, and Jorge Montes) to 0 opposed, the Board finds Respondent **guilty** of Specification No. 1 as set forth in Section No. 5 above.

As a result of the foregoing, the Board, by a vote of 6 in favor (Ghian Foreman, Paula Wolff, Mareil  B. Cusack, Nanette Doorley, Michael Eaddy, and Jorge Montes) to 1 opposed (Steven A. Block), hereby determines that cause exists for suspending the Respondent from his position with the Department of Police and from the services of the City of Chicago for a period of six (6) months.

NOW THEREFORE, IT IS HEREBY ORDERED that Police Officer Chavez Siler, Star No. 7068, as a result of having been found guilty in Police Board Case No. 22 PB 3001-1, be and hereby is suspended from his position as a police officer with the Department of Police and from the services of the City of Chicago, for a period of six (6) months, from March 24, 2022, (the date he was suspended upon the filing of charges) to and including September 23, 2022.

IT IS FURTHER ORDERED that Officer Siler be and hereby is restored to his position as a police officer and to the services of the City of Chicago, with all rights and benefits, effective September 24, 2022.

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This disciplinary action is adopted and entered by a majority of the members of the Police Board: Ghian Foreman, Paula Wolff, Mareil  B. Cusack, Nanette Doorley, Michael Eaddy, and Jorge Montes.

Respondent Boone

By votes of 7 in favor (Ghian Foreman, Paula Wolff, Steven A. Block, Mareil  B. Cusack, Nanette Doorley, Michael Eaddy, and Jorge Montes) to 0 opposed, the Board finds Respondent **not guilty** of the charges in Specification Nos. 1 – 4 as set forth in Section Nos. 6 – 9 above.

NOW THEREFORE, IT IS HEREBY ORDERED that Officer Boone, Star No. 14847, as a result of having been found not guilty of all charges in Police Board Case No. 22 PB 3001-2, be and hereby restored to his position with the Department of Police and to the services of the City of Chicago, with all rights and benefits, effective March 24, 2022 (the date he was suspended upon the filing of charges).

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Ghian Foreman, Paula Wolff, Steven A. Block, Mareil  B. Cusack, Nanette Doorley, Michael Eaddy, and Jorge Montes.

Respondent Clark

By votes of 7 in favor (Ghian Foreman, Paula Wolff, Steven A. Block, Mareil  B. Cusack, Nanette Doorley, Michael Eaddy, and Jorge Montes) to 0 opposed, the Board finds Respondent not guilty of the charges in Specification Nos. 1 – 3 as set forth in Section Nos. 10 – 12 above.

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NOW THEREFORE, IT IS HEREBY ORDERED that Officer Clark, Star No. 2795, as a result of having been found not guilty of all charges in Police Board Case No. 22 PB 3001-3, be and hereby restored to his position with the Department of Police and to the services of the City of Chicago, with all rights and benefits, effective March 25, 2022 (the date he was suspended upon the filing of charges).

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Ghian Foreman, Paula Wolff, Steven A. Block, Mareilé B. Cusack, Nanette Doorley, Michael Eaddy, and Jorge Montes.

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DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 20th DAY OF APRIL, 2023.

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director

**DISSENT FROM CERTAIN FINDINGS AND
CONCURRENCE WITH DECISION**

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We dissent from the majority's findings that Officer Siler is guilty of all of the charges set forth in Specification 1. Specifically, we find that Officer Siler is not guilty of Rules 6, 9, and 38. However, because we agree with the majority's decision to find Officer Siler guilty of Rules 2 and 8, we concur with the majority's ultimate decision to find him guilty of Specification 1.

Based on our review of the evidence, we find that the amount of force used by Officer Siler was objectively reasonable at all times during the interaction with Whitehead, and therefore the Superintendent did not meet its burden of proving the charges related to use of excessive force.

We disagree with the majority's finding that Officer Siler's actions in striking Whitehead in the face and/or head with the gun crossed the threshold from justified to unjustified use of force once Whitehead's hands were caught in his jacket. The fact that Whitehead's hands were seemingly caught in his jacket momentarily during the struggle did not equate to a decrease in resistance. We find that the threat level posed by Whitehead did not decrease at this moment, as Whitehead continued to flail, actively resist, and even attempted to place his hooded jacket over Siler's head.

The Board has been able to view the surveillance video of the interaction numerous times, in slow motion, and safe from the very real, immediate threat posed by Whitehead during the arrest. We believe the majority is improperly judging Respondent Siler's actions here with the 20/20 vision of hindsight rather than from the perspective of a reasonable officer on the scene. We find that the split-second judgment Officer Siler made in continuing to strike Whitehead (while Whitehead's arms were in his jacket but he otherwise continued to resist and flail) was objectively reasonable.

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Further, we think the surveillance video illustrates that Respondent Siler was properly continuing to assess the risk and his available force options throughout the encounter.

Following Siler's strikes, Whitehead was still flailing, resisting, and refusing to show or give the officers his hands. We credit Respondent Siler with deciding to stop striking Whitehead with Siler's gun and move to another force option (i.e., requesting another officer use a taser) when it appeared Whitehead continued to resist in response to the strikes. This combination of actions enabled the officers to finally gain control over and handcuff Whitehead. While we do not seek to minimize Whitehead's post-arrest injuries, we strongly believe Siler (and the other officers) used objectively reasonable force that was proportional to the threat posed by Whitehead.

Because we find that all of Officer Siler's use-of-force actions, including those with his gun, were justified, we also do not believe the Superintendent met its burden to show that Officer Siler violated Rule 38 (unlawful or unnecessary use or display of a weapon).

However, we concur with the decision to find Officer Siler guilty of Rules 2 and 8 and therefore agree with the majority's decision to find him guilty of Specification 1. More specifically, we agree with the majority that Officer Siler's statements to Boone to "tase [Whitehead] in the face" constituted a violation of Rule 8 (and as a result, Rule 2). We agree that these statements were unjustified and verbally disrespectful. That being said, we do disagree with the majority's finding that Siler's actions also violated Rule 8 when he continued to strike Whitehead in the face with Siler's gun. As explained above, we find that Siler's use of force during the encounter was justified from start to finish, and therefore do not believe these actions form the basis of a Rule 8 violation.

GHIAN FOREMAN

STEVEN A. BLOCK

NANETTE DOORLEY

DISSENT FROM DISCIPLINARY ACTION

Respondent Chavez Siler

I respectfully dissent from the majority's decision on discipline. I believe the discipline for Officer Siler should be a few days at most, and that a six-month suspension is unduly punitive in light of the very real threat Officer Siler faced in dealing with an armed, combative individual. Officer Siler and his fellow officers ultimately successfully diffused the altercation with Whitehead without resorting to deadly force, which should be encouraged, not punished.

STEVEN A. BLOCK

RECEIVED A COPY OF

THESE FINDINGS AND DECISIONS

THIS ____ DAY OF _____, 2023.

ERIC CARTER
Interim Superintendent of Police