

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

IN THE MATTER OF THE)	
RECOMMENDATION FOR DISCIPLINE OF)	No. 24 RR 07
POLICE OFFICER FERNANDO RUIZ,)	
STAR NO. 12935, DEPARTMENT OF POLICE,)	(CR No. 2023-1622)
CITY OF CHICAGO.)	

REQUEST FOR REVIEW

On October 7, 2024, the Executive Director 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 Police Officer Fernando Ruiz, Star No. 12935, arising out of the investigation of Complaint Register No. 2023-1622 (“Request for Review”).

The investigation stems from a fatal police-involved shooting that occurred at approximately 10:00 a.m. on April 15, 2023, near 3846 West Flournoy Street on Chicago’s West Side. According to information provided by COPA, Officers Ruiz, Brian Bodnar, and Gabriel Bikoma were on routine patrol in an unmarked squad car, accompanied by Officers Jacob Geary and David Guerrero, who were patrolling in a separate unmarked vehicle. As they traveled down Flournoy, they spotted a group of unknown men standing on the north sidewalk. At that moment, they heard an unidentified individual, believed to be a lookout, shout, “*it’s real*”—which the officers interpreted as a code to alert others to the police presence.

Due to an ongoing gang conflict in the area, which had recently resulted in a homicide, Officer Ruiz pulled his unmarked car to the north sidewalk in an attempt to speak with the men about the homicide. As Officer Ruiz pulled the car closer to the sidewalk, he saw that one of the

No. 24 RR 07
Police Officer Fernando Ruiz
Request for Review and Opinion

men, later identified as Reginald Clay Jr., was leaning over the front passenger window of a car parked on the street.

Body-worn camera (“BWC”) footage then shows Clay removing his head from the front passenger window of the parked car, turning away from the officers and looking back over his shoulder once to observe the officers while slowly walking toward a gangway between two nearby apartment buildings. Due to the officers’ delayed activation of their BWC’s, audio was not captured during the initial part of the encounter.

According to Officers Ruiz and Bikoma, Officer Ruiz instructed Clay to stop walking toward the gangway. Officer Ruiz reported that, after Clay disregarded his command, he began to accelerate his pace. At this point, Clay continued at a measured pace, breaking into a run after observing Officer Ruiz pursuing him.

Clay ran through a gangway to the rear of an apartment building, turned right along the back of the building and then right again into a dead-end gangway. Officer Ruiz, with Officer Bikoma following closely behind, pursued him on foot.

As Officer Ruiz rounded the corner of the dead-end gangway, his BWC footage shows Clay facing him in the dead-end gangway, reaching for a handgun and moving toward Officer Ruiz. It is at this point that Officer Ruiz fires four shots, fatally wounding Clay.

Following the conclusion of COPA’s investigation, the Chief Administrator issued a recommendation for discipline of Officer Ruiz. The Superintendent of Police agreed with some but not all of the Chief Administrator’s disciplinary recommendations and proposed less discipline for Officer Ruiz.

No. 24 RR 07
Police Officer Fernando Ruiz
Request for Review and Opinion

The Chief Administrator recommended that the following allegations¹ against Officer Ruiz be *Sustained*:

On or about April 15, 2023, at approximately 9:58 a.m., at or near 3846 West Flournoy Street in Chicago, Officer Ruiz:

2. Engaged in and/or continued a foot pursuit in violation of Chicago Police Department (CPD) General Order G03-07, Section V.A.;
3. Failed to notify the Office of Emergency Management and Communications (OEMC) of a foot pursuit, in violation of CPD General Order G03-07, Section VII;
4. Failed to timely activate his body-worn camera, in violation of CPD Special Order S03-14; and
5. Failed to use de-escalation techniques to prevent or reduce the need for the use of force, in violation of CPD General Order G03-02 and G03-02-01.

The Chief Administrator recommended that Officer Ruiz be discharged from the Chicago Police Department.

The Superintendent disagreed with the Chief Administrator's recommendation for discipline of Officer Ruiz. While the Superintendent agreed that Allegation Nos. 3 and 4 should be sustained and proposed that Officer Ruiz be suspended for two (2) days for these violations, the Superintendent stated that Allegation Nos. 2 and 5 should not be sustained and he disagreed that Officer Ruiz should be discharged from the Chicago Police Department.

According to the Certificate submitted by the Chief Administrator: (1) the Chief Administrator issued the recommendation for discipline on May 24, 2024; (2) the Chief Administrator received the Superintendent's written response on August 22, 2024; (3) the Chief Administrator's designees met with the Superintendent's designees and concluded their

¹Allegation No. 1, that Officer Ruiz "discharged a firearm at or in the direction of Reginald Clay in violation of General Order G03-02," was found by the Chief Administrator to be *Not Sustained*, a finding with which the Superintendent agreed.

No. 24 RR 07
Police Officer Fernando Ruiz
Request for Review and Opinion

discussion of this matter on October 4, 2024; and (4) the Request for Review was sent via email to the Executive Director of the Police Board on October 7, 2024.

The Executive Director of the Police Board prepared and forwarded the Request for Review file to Kyle Cooper, 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"). 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. Following his initial review of this matter on October 10, 2024, the Reviewing Member requested, received and reviewed the body-worn camera (BWC) video recordings from the investigative file.

OPINION

Pursuant to the Police Board's Rules of Procedure, to overcome the Chief Administrator's recommendation for discipline, the Superintendent's proposed disposition must be more reasonable and appropriate than the Chief Administrator's recommendation based on the nature of the misconduct alleged and the information contained in the Request for Review file.

After thoroughly reviewing the Request for Review file, it is my opinion that the Superintendent did not meet his burden to overcome the Chief Administrator's recommendation that Officer Ruiz be discharged from the Chicago Police Department. The information in the Request for Review file supports the Chief Administrator's determination that Officer Ruiz: (1) engaged in and/or continued a foot pursuit in violation of CPD directives; and (2) failed to use de-escalation techniques to prevent or reduce the need for the use of force. Given these facts,

and in light of Clay's death, the Chief Administrator's recommendation for discharge is more reasonable and appropriate than the Superintendent's recommendation to dismiss these charges.

1. Information Regarding Ruiz's Violation of CPD's Foot Pursuit Directives

Here, the Request for Review file supports the Chief Administrator's determination that Officer Ruiz's foot pursuit of Clay violated CPD directives. To initiate a foot pursuit, CPD members must have a valid law enforcement basis to stop the person in question. Additionally, to initiate or continue a foot pursuit where there is a valid law enforcement basis, CPD members must constantly evaluate the pursuit based on the balancing test set forth in CPD's General Order G03-07.

Based on the information in the Request to Review file, it was reasonable for COPA to determine that Officer Ruiz lacked a valid law enforcement reason to stop Clay. According to the file, Officer Ruiz decided to stop Clay because of several factors, such as Clay's presence in an area known for gang activity, Clay's brief grab at his waistband and Clay's attempt to walk away when approached. However, based on controlling law, it was reasonable for COPA to conclude that none of these factors, individually or collectively, established reasonable suspicion of criminal activity that would justify stopping Clay.

Even if a valid law enforcement reason had existed to stop and question Clay, it was reasonable for COPA to determine that Officer Ruiz did not properly apply the required balancing test outlined in CPD's foot pursuit policy. CPD's foot pursuit policy explicitly requires officers to weigh the need for immediate apprehension against the potential for harm. Thus, it was reasonable for COPA to conclude that Officer Ruiz's decision to continue the pursuit through a confined, dead-end gangway—knowing that Clay was potentially armed—unnecessarily increased the potential for harm in violation of CPD policy.

2. Information Regarding Failure to Use De-Escalation Techniques

The Request for Review file also supports the Chief Administrator's determination that Officer Ruiz's actions reflect a failure to employ de-escalation techniques as mandated by CPD policy. According to CPD's Use of Force policies, officers are required to use de-escalation techniques wherever possible to reduce the likelihood of force becoming necessary. For example, CPD's General Order G03-02 instructs officers to evaluate the situation continuously, using positioning, cover and the creation of time and distance as strategies to avoid unnecessary escalation. In this case, COPA reasonably concluded that Officer Ruiz had several viable alternatives to pursuing Clay into a confined space. For instance, COPA noted that, given the presence of additional officers nearby, Officer Ruiz could have opted to set up a perimeter or await backup, containing Clay without increasing the risk of armed confrontation.

Furthermore, the Request for Review file states that Officer Ruiz was aware that Clay was heading into a dead-end gangway, which presented an ideal opportunity to apply de-escalation techniques. Rather than proceeding into this confined space, Officer Ruiz could have maintained a position at the entrance, which would have allowed for containment and afforded time to issue verbal commands from a safe distance. By pursuing Clay directly, it was reasonable for COPA to find that Officer Ruiz escalated the encounter and created a situation where the risk of using deadly force became significantly higher. Additionally, COPA reasonably noted that Officer Ruiz failed to consider other available options, such as maintaining distance and allowing his fellow officers to assist in establishing a containment strategy, which would have minimized the need for force. This approach is consistent with the CPD's Foot Pursuit and Use of Force policies, both of which emphasize using time, distance and available resources to enhance safety and promote peaceful resolutions.

No. 24 RR 07
Police Officer Fernando Ruiz
Request for Review and Opinion

Thus, not only did the Superintendent fail to meet his burden to overcome the Chief Administrator's recommendation to discharge Officer Ruiz, but COPA's proposed disposition is particularly reasonable and appropriate given the nature of the alleged misconduct and the information contained in the Request for Review file. Therefore, pursuant to Section 2-78-130(a)(iii) of the Municipal Code of Chicago, the Chief Administrator's recommendation for discipline of Police Officer Fernando Ruiz, Star No. 12935, shall be deemed accepted by the Superintendent.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 17th DAY OF OCTOBER 2024.

/s/ KYLE COOPER
President
Police Board

Attested by:

/s/ MAX A. CAPRONI
Executive Director
Police Board