

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

<b>IN THE MATTER OF THE</b>	)	
<b>RECOMMENDATIONS FOR DISCIPLINE OF</b>	)	
<b>POLICE OFFICER CODY MALONEY, STAR No. 13032,</b>	)	<b>No. 22 RR 26</b>
<b>AND</b>	)	
<b>POLICE OFFICER TITO JIMENEZ, STAR No. 14955,</b>	)	<b>No. 22 RR 27</b>
<b>STAR No. 8781, DEPARTMENT OF POLICE,</b>	)	
<b>CITY OF CHICAGO.</b>	)	<b>(CR No. 1092523)</b>

**REQUEST FOR REVIEW**

On December 16, 2022, 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 recommendations for discipline of Police Officer Cody Maloney, Star No. 13032, and Police Officer Tito Jimenez, Star No. 14955, arising out of the investigation of Complaint Register No. 1092523 (“Request for Review”).

The investigation stems from an incident at approximately on January 27, 2019, in the 11<sup>th</sup> Police District. According to the Summary Report of Investigation, Officers Maloney and Jimenez were on patrol when they observed a man they suspected to be involved in criminal activity, specifically the purchase of illicit substances, and stopped him for further investigation. Upon being stopped, the man admitted that he possessed drug paraphernalia and the officers attempted to detain him. After a physical struggle, during which the man resisted attempts to be placed in a prone position on the ground, the officers handcuffed him and transported him to the district station. There is no dispute that both officers failed to activate their body-worn cameras during this incident and that Officer Maloney failed to submit a Tactical Response Report (TRR).

Following the conclusion of the investigation, the Chief Administrator issued

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recommendations for discipline of Officers Maloney and Jimenez. The Chief Administrator recommended that the following allegations against Officer Maloney be *Sustained*:

On or about January 27, 2019, at approximately 5:30 p.m., at or near 3829 West Augusta Boulevard in Chicago, Officer Maloney:

1. Failed to activate his body-worn camera during law-enforcement activity; and
2. Failed to submit a Tactical Response Report (TRR).

The Chief Administrator recommended that the following allegation against Officer Jimenez be *Sustained*:

On or about January 27, 2019, at approximately 5:30 p.m., at or near 3829 West Augusta Boulevard in Chicago, Officer Jimenez:

1. Failed to activate his body-worn camera during law-enforcement activity.

The Chief Administrator recommended that Officers Maloney and Jimenez each be suspended from the Chicago Police Department for a period of ten (10) days. The Superintendent of Police agreed that the allegations against the officers should be sustained, but disagreed with the Chief Administrator's recommendations for discipline and proposed that each officer be suspended for a period of one (1) day.

According to the Certificate submitted by the Chief Administrator: (1) the Chief Administrator issued the recommendation for discipline on September 2, 2022; (2) the Chief Administrator received the Superintendent's written response on November 4, 2022; (3) the Chief Administrator's designees met with the Superintendent's designees and concluded their discussion of this matter on December 9, 2022; and (4) the Request for Review was sent via email to the Executive Director of the Police Board on December 16, 2022.

The Executive Director of the Police Board prepared and forwarded the Request for Review file to Steven A. Block, 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 December 23, 2022, 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**

The only disagreement between the Chief Administrator and the Superintendent in this case is the discipline to be imposed on the officers. Placing this case in the context of the very serious disciplinary cases that come before the Police Board, the dispute here is relatively minor: should the officers be suspended for one day, as proposed by the Superintendent, or ten days, as proposed by the Chief Administrator. According to the Police Board's Rules of Procedure, my role here is limited to determining whether "the Superintendent has met the Superintendent's burden of overcoming the Chief Administrator's recommendation." Rules of Procedure at VI.E. My decision should consider "whether the Superintendent's proposed disposition is more reasonable and appropriate than the Chief Administrator's recommendation . . .". *Id.*

There is nothing in the record before me to support a determination that either recommendation is more or less reasonable than the other. The Superintendent points to one other case where an officer failed to activate a body-worn camera and submit a TRR and COPA recommended a reprimand. Superintendent's Response at 2. But he provides no information about that case nor explains whether the situations are, as he concludes, "identical." The Chief Administrator argues that a ten-day suspension is appropriate for Officer Jimenez because this is the second time he failed to activate his body-worn camera when required. Chief Administrator Recommendation at 3. She argues that a ten-day suspension is appropriate for Officer Maloney

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because he failed to activate his body-worn camera *and* failed to submit a TRR. *Id.* This may be true, but without more information regarding the officers' backgrounds and the penalties recommended in other similar cases (beyond the two or three the parties reference), there is no principled way for me to say what discipline is appropriate here. Therefore, it is my opinion that, based on a thorough review of the Request for Review material, the Superintendent did not meet the burden of overcoming the Chief Administrator's recommendations for discipline.

I will further note that it is disappointing that this matter is before the Board at all. As I previously stated, the daylight here between the Superintendent and the Chief Administrator is not great. They agree that the findings against the officers should be sustained and that discipline is appropriate. And they agree that, relatively speaking, the discipline to be imposed on the officers is modest. Though there are many cases where the parties understandably hold widely divergent views, when the Superintendent and Chief Administrator's recommendations are as close as they are here, one would reasonably expect that they be able to come to a consensus on the discipline to be imposed. The public's trust in the police disciplinary process would be well-served if, in cases such as this one, the Superintendent and Chief Administrator work as hard as possible to find common ground. That does not appear to have happened here.

Therefore, pursuant to Section 2-78-130(a)(iii) of the Municipal Code of Chicago, the Chief Administrator's recommendations for discipline of Police Officer Cody Maloney, Star No. 13032, and Police Officer Tito Jimenez, Star No. 14955, shall be deemed accepted by the Superintendent.

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DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 30<sup>th</sup> DAY  
OF DECEMBER, 2022.

/s/ STEVEN A. BLOCK  
Member

Attested by:

/s/ MAX A. CAPRONI  
Executive Director