

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

IN THE MATTER OF THE)	
RECOMMENDATIONS FOR DISCIPLINE OF)	
)	
POLICE OFFICER RICHARD C. CARO,)	No. 18 RR 01
STAR No. 5368, DEPARTMENT OF POLICE,)	
CITY OF CHICAGO,)	
)	
AND)	
)	
POLICE OFFICER BENJAMIN GARCIA,)	No. 18 RR 02
STAR No. 13284, DEPARTMENT OF POLICE,)	
CITY OF CHICAGO.)	(CR No. 1076185)

REQUEST FOR REVIEW

On February 5, 2018, 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 recommendations for discipline of Police Officer Richard C. Caro, Star No. 5368, and Police Officer Benjamin Garcia, Star No. 13284, arising out of the investigation of Complaint Register No. 1076185 (“Request for Review”).

The Chief Administrator recommended that the following allegation against both Officer Caro and Officer Garcia be *Sustained*:

Allegation No. 1: On July 17, 2015, at approximately 3:00 p.m., near the corner of West Huron Street and North Homan Avenue, Chicago, Officers Caro and Garcia stopped Sade Porter without justification, in violation of the Fourth Amendment of the U.S. Constitution and in violation of Chicago Police Department Special Order S04-13-09, “Contact Information System,” thereby violating the following Rules of Conduct: Rule 1, which prohibits the “Violation of any law or ordinance”; 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 Rule 6, which prohibits “Disobedience of an order or directive, whether written or oral.”

The Chief Administrator recommended that both Officer Caro and Officer Garcia be

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suspended from the Chicago Police Department for a period of twelve (12) days.

The Superintendent objected to the Chief Administrator's recommendation. The Superintendent recommended that Allegation No. 1 against both Officer Caro and Officer Garcia be classified as *Exonerated*.

According to the Certificate submitted by the Chief Administrator: (1) COPA issued the recommendation for discipline on November 14, 2017; (2) COPA received the Superintendent's written response on January 12, 2018; (3) the Chief Administrator met with the Superintendent's designees and discussed this matter on January 29, 2018; and (4) the Request for Review was sent via email to the Executive Director of the Police Board on February 5, 2018.

The Executive Director of the Police Board prepared and forwarded the Request for Review file to John P. O'Malley Jr., 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 considered 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

In the opinion of the Reviewing Member, the Superintendent of Police has met the burden of overcoming the Chief Administrator's recommendation for discipline.

Tactical officers in all police districts are assigned general missions to curb violence, disrupt drug sales, and pro-actively patrol the districts to help deter and prevent crimes that impact the residents. In this case, Officers Caro and Garcia were carrying out the mission assigned and observed what they believed was suspicious behavior. They conducted what is

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known as a Terry stop to investigate if the suspicious person was committing a crime, in this case, possible possession or sale of narcotics in an area known for a high level of narcotic activity.

They were required to articulate their activity via the Department's policy and procedure at the time via the Contact Information System, also known as a contact card. They did so and that information was approved by a supervisor. While the information supplied may not have spelled out all the articulable suspicion they had, it justified the stop. It was also approved by a supervisor. Since this incident, both officers have received additional training and the requirements for officers to make these stops and articulate why they did so have increased and rightfully so. However, when this stop occurred, these officers did what was required by them at the time and followed the training they had been given based on department policy and case law as interpreted by the United States Supreme Court.

In the *United States v. Sokolow*, the Supreme Court ruled that a person may be detained if reasonable suspicion is present that a person may be involved in criminal activity. It does not matter that there might be a possible innocent explanation of the activity witnessed by the police officer. In interviews with the Independent Police Review Authority (the investigative agency that preceded COPA) and at testimony given in depositions, the officers explained that the body language and actions by Sade Porter raised their suspicion. She made eye contact and began to walk in a different direction once she saw the officers and they witnessed her drop or throw something from her pockets. The interviews and testimony by both officers were consistent and credible. This could not be said for witnesses for Sade Porter and possibly her own version of events.

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Both officers stated that Sade Porter expressed verbal and physical resistance to the stop and brief detention. The officers made a decision to handcuff her and place her into their police vehicle for a period of time so that they could investigate further. The decision to handcuff someone during an investigatory stop or detention is a tactical decision that is based on all the factors the officers observe both visually and audibly. There are times when this action is necessary, especially when officers feel the situation may rise to a level of physical confrontation. Officers do not have to be assaulted, battered, or concerned about an armed confrontation to make the decision to place someone in handcuffs. Placing someone in handcuffs does not automatically constitute an arrest, and is a common practice used by law enforcement when doing so can prevent harm to not only the officers but to the subject of the investigation as well. The environment at the scene of this stop and subsequent investigation was rich. It was in a high crime area and the subject of the stop and detention was agitated. The officers' assertion that the situation could have boiled over was most likely a correct one. Placing someone in restraints can often times quell a potential situation while the officers concentrate on determining if a crime has been or was about to be committed, and at times can be considered a best method to safely and securely continue conducting their investigation during a stop.

It is a reasonable request of law enforcement officers to ask for your name and other basic information so that they can determine who it is they are speaking with. Sade Porter's refusal to identify herself to the officers prolonged her detention and most likely raised the suspicion of both officers. Illinois law allows officers to demand the name and address of the person being detained or questioned and an explanation of their actions. Refusing to do so only complicates the situation. As the subject of an investigation, providing simple information such

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as your name often helps defuse and deescalate the situation even if you believe you were stopped without cause.

COPA concluded that the allegation that the officers failed to fill out the contact card information was unfounded. COPA did recommend sustaining the allegation that the articulation used did not meet the burden and was insufficient in order to detain Sade Porter under the Fourth Amendment and Department policy. COPA also stated that the officers' observation of her dropping an unknown object in a high narcotics area did provide justification for a brief investigatory stop. This information was not included in the contact card but was gained during subsequent interviews and testimony.

I find that based on the information presented from both the Superintendent and COPA, the officers did have reason to stop, detain, and investigate Sade Porter based on her actions prior to and during the stop until such time they determined that probable cause did not exist and released her. I also find the stop was as brief as possible and was partially extended due to the actions of Sade Porter and in order for the officers to reasonably complete the investigation. Officers Caro and Garcia were reasonably and lawfully carrying out their duty to pro-actively disrupt drug activity in the 011th district.

For these reasons, I find that the Superintendent has met the burden of overcoming the Chief Administrator's recommendations for discipline. Therefore, pursuant to Section 2-78-130(a)(iii) of the Municipal Code of Chicago, the Superintendent's response—that Allegation No. 1 against both Officer Caro and Officer Garcia be classified as *Exonerated*—shall be implemented.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 16th DAY OF FEBRUARY, 2018.

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/s/ JOHN P. O'MALLEY JR.
Member
Police Board

Attested by:

/s/ MAX A. CAPRONI
Executive Director
Police Board