

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	June 24, 2020
Time of Incident:	11:29 p.m.
Location of Incident:	11353 South Avenue L
Date of COPA Notification:	June 24, 2020
Time of COPA Notification:	11:53 p.m.

Officers Francisco Guevara #8284 and Roberto Casillas #11077 were responding to a call for fireworks in the vicinity of Ewing Avenue and 113th Street when they drove southbound in the west alley of Ewing. As the officers approached 114th Street, they observed movement in the dark and Officer Guevara turned on the passenger side spotlight. A subject, now known to be ██████ emerged, raised both arms, and pointed an object at the officers. Officer Guevara believed that ██████ was about to shoot at the officers, drew his firearm, and discharged his firearm three times from inside the police vehicle. The officers exited the police vehicle and Officer Casillas handcuffed ██████. ██████ asked why Officer Guevara shot at him and the officer responded that ██████ had a firearm, which ██████ denied. The officers conducted a search of the immediate area and did not find a firearm; however, a cellular phone was found next to ██████.

Any discharge of an officer’s firearm results in a mandatory notification to COPA. This investigation was initiated pursuant to such notification. After a review of all available evidence, COPA finds that the use of deadly force by Officer Guevara was within Department policy. In addition, the COPA investigation revealed that the officers did not activate their body-worn cameras until after the firearm discharge. Although the officers were responding to a service call for fireworks, they failed to activate their body-worn cameras on their way to the location of the incident and, as a result, the cameras did not fully capture the firearm discharge that occurred as the officers were investigating the fireworks incident. Special Order S03-14 requires that body-worn cameras are activated when an officer responds to a call for service. Consequently, COPA finds that the allegation that Officers Guevara and Casillas failed to activate their cameras in a timely manner be Sustained.

II. INVOLVED PARTIES

Involved Officer #1:	GUEVARA, Francisco; Star #8284; Employee ID# ██████; Date of Appointment: December 17, 2018; Police Officer; Unit of Assignment: 004; Date of Birth: ██████, 1990; Male; Hispanic.
Involved Officer #2:	CASILLAS, Roberto; Star #11077; Employee ID# ██████; Date of Appointment: April 25, 2016; Police Officer; Unit

of Assignment: 004; Date of Birth: ██████████, 1985; Male; Hispanic.

Involved Individual #1: ██████████ Daniel; DOB: ██████████, 1989; Male; Hispanic.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Police Officer Francisco Guevara #8284	1. It is alleged that on June 24, 2020, at approximately 11:30 p.m., in the vicinity of 11353 S. Avenue L, you failed to activate his body worn camera in a timely manner, in violation of Special Order S03-14 .	Sustained
Police Officer Roberto Casillas #11077	1. It is alleged that on June 24, 2020, at approximately 11:30 p.m., in the vicinity of 11353 S. Avenue L, you failed to activate his body worn camera in a timely manner, in violation of Special Order S03-14 .	Sustained

IV. APPLICABLE RULES AND LAWS

Rules

- 1. Rule 6 – Disobedience of an order or directive, whether written or oral.

General Orders

- 1. G03-02: Use of Force (effective February 29, 2020 – April 14, 2021)
- 2. G03-02-01: Force Options (effective February 29, 2020 - April 14, 2021)

Special Orders

- 1. S03-14 (Body Worn Cameras)

Federal Laws

- 1. U.S. Constitution, 4th Amendment

State Laws

- 1. 720 ILCS 5/7-5, Peace Officer’s Use of Force in Making Arrest

V. INVESTIGATION¹

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

a. Interviews

In a **letter to COPA**² received on or about March 21, 2022, ██████ wrote that on June 24, 2020, he was intoxicated after a party and was walking in an alley to his mother's residence at 113th Street and Avenue L, when Chicago Police officers drove past him and started firing shots at him. ██████ stated that it was like a "drive-by" shooting. ██████ was not struck by any bullets. ██████ added that he was charged with aggravated battery on two police officers, but he denied striking any officer.³

In his **statement to COPA** on July 2, 2020, **Involved Officer #2, Officer Roberto Casillas #11077**, stated that on June 24, 2020, he and his partner, Officer Guevara, were conducting a routine patrol in a marked police vehicle in their regular beat, Beat 433. The officers received a call of fireworks in the 11300 block of Ewing. Officer Casillas drove to 113th Street, then southbound in the alley between Ewing and Avenue L. Officer Casillas observed a subject, now known to be ██████ against a garage on the west side of the alley close to 114th Street and Officer Guevara directed the spotlight on him. Officer Casillas estimated that ██████ was approximately two to four garages away from the police vehicle. Officer Casillas stated, "I'm not sure what he's doing there and then all of a sudden he comes out and he's pointing a gun towards our vehicle."⁴ The officer believed that ██████ was armed with a gun because his arms were both fully extended and pointing at the police vehicle in a "shooting stance."⁵ Officer Casillas immediately ducked for cover and then heard shots fired. Officer Casillas was not sure whether it was his partner discharging his firearm or if the officers were being shot at. When he looked up again to reassess the situation, the officer observed ██████ on the ground. The officers exited their vehicle and Officer Guevara gave verbal commands to ██████ to show his hands. ██████ complied and Officer Casillas approached and handcuffed him. Officer Guevara requested an ambulance over the radio and reported that shots had been fired by the police. Officer Casillas did not observe any injuries on ██████. The officer then searched the immediate area for a firearm but did not find anything. ██████ denied having a firearm. In response to the allegation that he failed to activate his body worn camera in a timely manner in violation of Special Order S03-14, Officer Casillas stated that he turned it on when he could as he was exiting the vehicle. Asked why he did not turn it on earlier when he received the call, Officer Casillas responded that when he and his partner get firework calls, there is usually nothing to investigate. The officer added, "I turn it on when it was something to investigate. If there would have been something before to investigate, probably, if we would've saw something, we would have turned it on, or I would have turned it on there."⁶

In his **statement to COPA** on July 2, 2020, **Involved Officer #1, Officer Francisco Guevara #8284**, stated that he and his partner, Officer Casillas, were patrolling their regular beat, Beat 433, when they received a call for fireworks at 113th Street and Ewing. The officers arrived at that location but did not hear any fireworks and decided to tour the area "just in case."⁷ The

² Att. #41.

³ Through his attorney, ██████ declined to provide COPA with a formal statement. (Att. 47).

⁴ Att. #35, Page 8, Lines 18-21.

⁵ *Id.*, Page 11, Lines 8-12.

⁶ *Id.*, Page 26, Lines 4-8.

⁷ Att. #34, Page 8, Line 2.

officers turned right on 113th Street and then left southbound into the alley. Officer Guevara observed some movement and turned on his spotlight. As the police vehicle approached, a subject, now known to be ██████ emerged from behind some garbage cans and appeared to be concealing something, but Officer Guevara could not tell in the dark. When the officer turned on the spotlight, ██████ was approximately five to six garage lengths away from the police vehicle. ██████ raised both arms and “was gripping what I believed to be a weapon and he starts advancing towards us, pointing it straight at us, like he’s aiming, ready to shoot us.”⁸ Both officers got down, expecting fire; Officer Guevara then unholstered his firearm, raised himself enough to see ██████ and fired two to three rounds at him. The officers sought cover again because they were expecting ██████ to shoot back at them. Officer Guevara looked and saw that ██████ had fallen to the ground. The officers then exited the police vehicle and Officer Guevara reported shots fired over the radio. The dispatcher asked if the shots were fired by the police and the officer confirmed that they were. Officer Guevara requested an ambulance because he believed that his bullets had struck ██████. The two officers approached ██████ and Officer Guevara ordered him to show his hands. ██████ complied and Officer Casillas handcuffed him. Officer Guevara observed a cell phone and a dark hooded sweatshirt near ██████. Both officers searched the immediate vicinity for a firearm; additional officers arrived on the scene and assisted in the search. Officer Guevara stated that, to his knowledge, no firearm was recovered. Officers Guevara and Casillas were then ordered to remain separate. In response to the allegation that he failed to activate his body-worn camera in a timely manner in violation of Special Order S03-14, Officer Guevara stated that he did not see anything related to the fireworks call; otherwise, he would have turned it on earlier. The officer did not recall if there is a requirement under the special order to activate the BWC when he is dispatched to a call.

b. Digital Evidence

OEMC Transmissions⁹ document that Beat 433 reported over the radio that shots had been fired.¹⁰ Beat 433 adds that the suspect pulled out a gun.¹¹ The OEMC dispatcher asks if the suspect is in custody and Beat 433 replies that the officers cannot see whether the suspect still has a firearm and requests an ambulance because the suspect is on the ground.¹² The dispatcher then asks if the shots fired were by the police and Beat 433 confirms.¹³

A **Video Recording** from the **In-Car Camera** of Vehicle #7303 begins as a marked police vehicle is driving in an alley at night.¹⁴ At approximately 11:24:35 p.m., the officers direct their spot light toward the end of the alley, where a male subject in a white T-shirt and dark-colored shorts appears walking away from the officers. The male subject walks out of view of the in-car camera and, at approximately 11:24:40 p.m., re-emerges from behind a fence. The subject, now known to be Involved Individual #1, ██████ places his hands together and raises his arms as he walks toward the police vehicle. At approximately 11:24:45 p.m., debris and smoke appear inside the police vehicle and the police vehicle drives in reverse, while ██████ lowers himself to

⁸ *Id.*, Page 8, Lines 19-22.

⁹ Att. #29. The recording begins at approximately 11:25:02 p.m.

¹⁰ *Id.*, at approximately 1:58 minutes into recording.

¹¹ *Id.*, at approximately 2:08 minutes.

¹² *Id.*, at approximately 2:23 minutes.

¹³ *Id.*, at approximately 2:34 minutes.

¹⁴ The recording is time stamped and begins at approximately at 11:24:21 p.m. (Att. #21)

the ground out of view of the camera. The police vehicle then moves forward and comes to a stop. Two uniformed police officers exit and at approximately 11:25:22 p.m., the in-car camera's audio is activated. The officers approach [REDACTED] location with their firearms drawn and pointing flashlights. One of the officers, now known to be Officer Casillas, handcuffs [REDACTED]. Additional officers arrive on the scene and, at approximately 11:29:59 p.m., an unknown officer removes the police vehicle out of the alley and parks it on a residential street. The recording ends at approximately 11:54:27 p.m.¹⁵

A **Video Recording from Officer Guevara's Body-Worn Camera (BWC)**¹⁶ begins at approximately 11:25:11 p.m. and depicts the officer as the front seat passenger in the police vehicle. At approximately 11:26:31 p.m., Officer Guevara appears to handle the passenger side spotlight as the police vehicle is heading down an alley. At approximately 11:26:41 p.m., the police vehicle comes to a stop and Officer Guevara draws and discharges his firearm through the front windshield, causing debris to fly in the air. The police vehicle first goes in reverse, then moves forward and comes to a stop. The officer exits the vehicle and, at approximately 11:27:11 p.m., activates his BWC. Officer Guevara holds his firearm and yells, "Let me see your hands!"¹⁷ The officer responds to the OEMC dispatcher that he cannot see the subject and that he has a "pistol."¹⁸ Officer Guevara also requests an ambulance because the subject is "down."¹⁹ The OEMC dispatcher asks if the shots were fired by the police and the officer responds affirmatively. Officer Guevara and a second officer, now known to be Officer Casillas, approach a garage and a subject, now known to be [REDACTED] is lying on the ground in front of the garage door with his hands in the air. [REDACTED] states something inaudible about his phone and Officer Guevara asks why [REDACTED] pointed it at him. [REDACTED] replies that he was on his phone and Officer Guevara states, "No, you walked up and you pointed that phone at me, man."²⁰ Officer Casillas handcuffs [REDACTED] and Officer Guevara tells [REDACTED] that he had something else in his hand and asks where it is. Officer Guevara asks [REDACTED] if he is hurt, but [REDACTED] only replies that the officer shot him for no reason. Additional officers arrive on the scene and Officer Guevara proceeds to search the vicinity.²¹ At approximately 11:32:45 p.m. Officer Guevara asks [REDACTED] if he has been drinking but [REDACTED] does not respond to the question. A sergeant arrives at approximately 11:33:25 p.m. and asks Officer Guevara what happened. The officer states that he believes that he discharged two or three rounds. The recording ends at approximately 11:33:57 p.m.

A **Video Recording from Officer Casillas' BWC**²² begins at approximately 11:25:09 p.m. and depicts the officer driving the police vehicle. At approximately 11:26:12 p.m., the vehicle enters an alley and the front seat passenger, now known to be Officer Guevara, turns on the passenger side spotlight and points it forward. At approximately 11:26:40 p.m., Officer Guevara's right hand releases the spotlight handle and appears to reach to his right side. Officer Casillas raises his right hand to the gear shift on the steering wheel column and partially blocks the view to his right. A plume of smoke appears inside the vehicle as Officer Casillas first drives in reverse, then

¹⁵ Att. # 21.

¹⁶ Att. #13.

¹⁷ *Id.*, at 11:27:13 p.m.

¹⁸ *Id.*, at 11:27:21 p.m.

¹⁹ *Id.*, at 11:27:26 p.m.

²⁰ *Id.*, at 11:27:55 p.m.

²¹ *Id.*, at 11:31:15 p.m.

²² Att. #12.

forward before coming to a stop. Officer Casillas exits the vehicle and activates his BWC at approximately 11:27:09 p.m. Officer Casillas walks up to ██████ and handcuffs him. As Officer Guevara talks to ██████ appears to slur his words.²³ Officer Casillas begins to search the area with his flashlight. Additional officers arrive and Officer Casillas tells them that ██████ is not injured. An ambulance arrives on the scene at approximately 11:34:30 p.m. An unknown officer escorts Officer Casillas to a marked police vehicle and tells him to enter. The recording ends at approximately 11:35:05 p.m.

c. Physical Evidence

A **Crime Scene Processing Report** documents that three fired cartridge cases, stamped “WIN 9 mm Luger +P,” were found in the vicinity of the front passenger seat inside the police vehicle. The fired cartridge cases were photographed and inventoried under #14726128.²⁴

d. Documentary Evidence

An **Event Query Report** for Event #2017616123 indicates that on June 23, 2020, at approximately 11:00:52 p.m., an unidentified caller reported fireworks in the vicinity of 11309 S. Ewing Avenue. Beat 433 is dispatched to the assignment at approximately 11:21:21 p.m.²⁵

An **Event Query Report** for Event #2017616455 indicates that at approximately 11:27:15 p.m., shots fired were reported in the vicinity of 11353 S. Avenue L. At approximately 11:27:44 p.m., it was reported that shots were fired by the police.²⁶

The **Arrest Report** of ██████ indicates that Officers Guevara and Casillas responded to a call of fireworks. As the officers toured the area, the officers observed ██████ in the alley at approximately 11353 S. Avenue L. As the officers approached ██████ he faced the police vehicle and began to advance with his arms extended out. ██████ was pointing directly at the officers as if he was armed with a handgun and was about to shoot at the officers, placing the officers in reasonable apprehension of receiving a battery by firearm. ██████ was arrested and charged with simple assault.²⁷

A **Case Supplementary Report** documents that on June 25, 2022, at approximately 2:25 a.m., IRT Detective William Meister #20423 conducted an interview of ██████ stated that he had been drinking and was urinating in the alley when he observed a vehicle approaching. ██████ thought that the vehicle belonged to a rival gang. During the interview, ██████ reenacted his actions in the alley. ██████ held his cell phone in his hand and raised his left hand as if he was pointing a gun. ██████ denied having a gun. He then heard gunfire, fell to the ground and police officers handcuffed him. Detective Meister asked ██████ whether he knew that the vehicle

²³ *Id.*, at 11:28:05 p.m.

²⁴ Att. #36.

²⁵ Att. #7.

²⁶ Att. #5.

²⁷ Att. #1.

was a marked police vehicle with its spotlight on and ██████ refused to comment. The interview was then ended.²⁸

Officer Guevara's **Tactical Response Report (TRR)** documents that an action by the subject, ██████ presented an imminent threat of battery with weapon and committed an assault or battery against the involved member performing a police function. The TRR notes that ██████ was not armed with a weapon, but a "weapon/object" was perceived as a handgun. Officer Guevara responded by discharging his firearm three times. Per comments by responding Sergeant Claire Van Slyke #1275, ██████ did not sustain nor complain of any injury.²⁹

VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that a proposition is proved. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

VII. ANALYSIS

Officer Guevara's Use of Deadly Force

The applicable Chicago Police Department order is General Order G03-02, III-C-3, which states that the "use of deadly force is a last resort that is permissible only when necessary to protect

²⁸ Att. #39, Pages 12-13.

²⁹ Att. #3, Page 2.

against an imminent threat to life or to prevent great bodily harm to the member or another person. Consistent with this requirement, a sworn Department member may use deadly force only when such force is necessary to prevent:

- a. death or great bodily harm from an imminent threat posed to the sworn member or to another person.
- b. an arrest from being defeated by resistance or escape, where the person to be arrested poses an imminent threat of death or great bodily harm to a sworn member or another person unless arrested without delay.”

A preponderance of the evidence demonstrates that it was objectively reasonable for Officer Guevara to believe that [REDACTED] actions were immediately likely to cause death or great bodily harm to Officer Guevara and Officer Casillas. The two officers were investigating a call for fireworks in the vicinity of 113th Street. After not observing any fireworks in that intersection, they proceeded to tour the vicinity as part of their investigation. As Officer Casillas drove the police vehicle in the dark alley, Officer Guevara observed movement down the alley and turned on his spotlight to see what the movement was. A subject, now known to be [REDACTED] emerged from behind a fence. Instead of casually walking or moving to the side at the sight of an oncoming vehicle, [REDACTED] joined his hands and raised his arms, apparently pointing an object in the direction of the police vehicle and approaching the officers. Consequently, both officers reasonably believed that [REDACTED] was pointing a firearm at them and was about to shoot them. The officers first sought cover by ducking inside their vehicle and then Officer Guevara discharged his firearm three times. Officer Guevara stopped discharging his firearm when he observed [REDACTED] falling to the ground and then requested an ambulance. After Officer Casillas handcuffed [REDACTED] the officers conducted an immediate search of the area but did not find any firearm in the vicinity. [REDACTED] denied having a firearm; when the officers told [REDACTED] that he was pointing something at them, he responded that he was on his phone and that the officers shot him. However, a video recording from the in-car camera clearly depicts [REDACTED] emerging from behind a fence, not on his phone as he claimed, but holding an object in his hands and pointing that object in the direction of the officers. Although it is not clear in the video recording whether [REDACTED] is holding a firearm or another object, the manner of raising his arms and pointing at the officers reinforces the officers’ reasonable belief that [REDACTED] was armed with a firearm and was about to discharge the firearm at the officers. Because Officer Guevara’s belief [REDACTED] presented a danger to himself and his partner was objectively reasonable under the totality of the circumstances, Officer Guevara was entitled to use deadly force against [REDACTED]. Therefore, COPA finds that an officer with similar training and experience as Officer Guevara would reasonably believe [REDACTED] posed an immediate threat to his or her safety. The use of deadly force by Officer Guevara was objectively reasonable and within policy as Department’s General Order 03-02.

COPA’s allegation against Officers Guevara and Casillas

Special Order S03-14, III, A, 1 relates that the “decision to electronically record a law-enforcement-related encounter is mandatory, not discretionary, except where specifically indicated.” In addition, the Department member will “activate the system to event mode at the beginning of an incident and will record the entire incident for all law-enforcement-related activities. If circumstances prevent activating the BWC at the beginning of an incident, the member

will activate the BWC as soon as practical. Law-enforcement-related activities include but are not limited to: a. calls for service.”³⁰ Both Officers Guevara and Casillas stated that they were assigned to respond to the call for fireworks in the vicinity of Ewing and 113th Street. The officers accepted the assignment and proceeded to the location of the incident. Nothing prevented the officers from activating their cameras at that time; instead, neither officer activated his body-worn camera at that time, admitting that they would have activated their cameras if they had observed something related to the fireworks. Contrary to the officers’ explanation, the special order requires that the camera is activated at the beginning of an incident, such as a call for service. As a result, Officers Guevara and Casillas were obligated to activate their cameras as soon as they accepted the assignment, not upon arrival at the scene. Moreover, although the officers’ cameras would not have captured a visual of [REDACTED] actions, it is reasonable to conclude that if the cameras had been activated, they would have captured the officers’ verbal reactions to their observations. Such information would have provided valuable evidence for the COPA investigation. Based on the above evidence, it is more likely than not that the officers failed to activate their body-worn cameras in a timely manner and, consequently, COPA recommends that the allegation against the two officers be Sustained.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Francisco Guevara #8284

i. Complimentary and Disciplinary History

Officer Guevara’s complimentary history is comprised of 16 Achievements, including one Life Saving Award and 12 Honorable Mentions. He has no recent disciplinary history.

ii. Recommended Penalty

COPA has found that Officer Guevara failed to activate his body worn camera in a timely manner, in violation of Rule 6 and Special Order S03-14 and recommends a **REPRIMAND**.

b. Officer Roberto Casillas #11077

i. Complimentary and Disciplinary History

Officer Casillas’ complimentary history is comprised of 15 Achievements, including one Unit Meritorious Performance Award and 8 Honorable Mentions. He has no recent disciplinary history.

ii. Recommended Penalty

COPA has found that Officer Casillas failed to activate his body worn camera in a timely manner, in violation of Rule 6 and Special Order S03-14 and recommends a **REPRIMAND**.

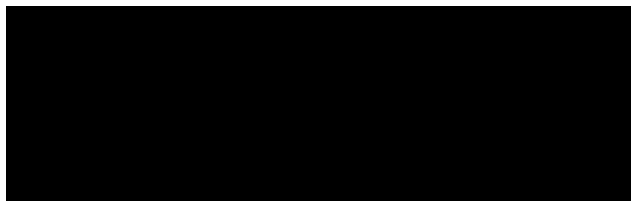
³⁰ Body Worn Cameras, Special Order S03-14, III, 2, a.

IX. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding / Recommendation
Officer Francisco Guevara #8284	1. It is alleged that on June 24, 2020, at approximately 11:30 p.m., in the vicinity of 11353 S. Avenue L, Officer Guevara failed to activate his body worn camera in a timely manner, in violation of Special Order S03-14 (Body Worn Cameras).	Sustained / Reprimand
Officer Roberto Casillas #11077	1. It is alleged that on June 24, 2020, at approximately 11:30 p.m., in the vicinity of 11353 S. Avenue L, Officer Casillas failed to activate his body worn camera in a timely manner, in violation of Special Order S03-14 (Body Worn Cameras).	Sustained / Reprimand

Approved:



Angela Hearts-Glass
Deputy Chief Investigator

4-3-2023

Date