



Log # 2022-3421

## FINAL SUMMARY REPORT<sup>1</sup>

### I. EXECUTIVE SUMMARY

On August 12, 2022, the Chicago Police Department's Crime Prevention and Information Center (CPIC) notified the Civilian Office of Police Accountability (COPA) of an officer-involved shooting that occurred at approximately 3:12 pm.<sup>2</sup> The incident, captured on body worn camera (BWC), POD camera, and 3<sup>rd</sup> party surveillance video, began when SDSC<sup>3</sup> officers were observing POD camera #7862W throughout the day. Officers observed individuals, outside of [REDACTED], with rifles, drum magazines, and handguns.<sup>4</sup> At approximately 3:00 pm, Officers from the 11<sup>th</sup> District observed an individual, now known as [REDACTED] holding a handgun before putting the weapon in his back right pocket.<sup>5</sup>

Officers working Beats 1163A and 1162D responded to the location with the alleged intention of making an investigatory stop.<sup>6</sup> At approximately 3:12PM, officers arrived at [REDACTED] in two unmarked Department vehicles.<sup>7</sup> Officer Fernando Ruiz exited the back passenger side of an unmarked CPD vehicle and approached the driver side of a Pontiac Grand Prix where [REDACTED] sat in the driver seat.<sup>8</sup> As Officer Ruiz approached the driver side door, [REDACTED] leaned back in his seat and appeared to reach for something on the passenger side of the vehicle.<sup>9</sup> As [REDACTED] turned back towards the driver's side of the Pontiac, Officer Ruiz discharged 1 round followed by 10 additional rounds, striking [REDACTED] five times.<sup>10</sup> Officers rendered aid and called for an ambulance.<sup>11</sup>

Upon review of the evidence, COPA served allegations that Officer Ruiz failed to timely activate his body-worn camera; discharged his firearm at or in the direction of [REDACTED] without justification, in violation of G03-02 and/or G03-02-01; and discharged his firearm under circumstances where an individual was not clearly visible in violation of G03-02-03.II.D.5.

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<sup>1</sup> Appendix A includes case identifiers such as the date, time, and location of the incident, the involved parties and their demographics, and the applicable rules and policies.

<sup>2</sup> Pursuant to § 2-78-120 of the Chicago Municipal Code, COPA has a duty to investigate all incidents in which a Chicago Police Department member discharges their firearm. Therefore, COPA determined it would be the primary administrative investigative agency in this matter.

<sup>3</sup> Strategic Decision Support Center "SDSC" is a room within each district where officers monitor POD cameras.

<sup>4</sup> Att. 10, Officer Ruiz Transcript Pg 23, Ln. 12-16.

<sup>5</sup> Att. 10, Officer Ruiz Transcript, Pg. 9, Lns. 14-21; Att. 4 -- POD 2159 W Adams - 7862W at 17:48

<sup>6</sup> Att. 32, OEMC Event Query; Att. 10 Ruiz Statement, Pg. 9, Lns. 14-21

<sup>7</sup> Att. 14, Officer Geary Transcript, Pg. 8-9

<sup>8</sup> Att. 4, POD 7862W at 27:25; and Att. 18 Surveillance footage at 7:48

<sup>9</sup> Att. 18, Surveillance footage at 7:50

<sup>10</sup> Att. 42, Ruiz TRR; and Att. 61

<sup>11</sup> Att. 37, Ruiz BWC at 2:30; and Att. 36 Geary BWC at 2:08

COPA also served allegations that Officers Baciu, Venegas, Geary, and Alexander failed to timely activate their body-worn cameras.

## II. SUMMARY OF EVIDENCE<sup>12</sup>

On the afternoon of Friday, August 12, 2022, SDSC officers were observing POD camera #7862W located at [REDACTED]. SDSC officers had bookmarked several incidents throughout the day, including, individuals with rifles, drum magazines, and handguns.<sup>13</sup> Officer Christopher Enter relayed in his statement to COPA that officers had been watching POD #7862W from approximately 10:30 am until the time of the incident on that day.<sup>14</sup> During that time, Officer Enter told COPA he witnessed, “a lot of guns,” including rifles, being moved from [REDACTED] to the porch and then to cars out front.<sup>15</sup> COPA independently verified Officer Enter’s observations by reviewing POD 7862W.<sup>16</sup>

At approximately 3:00 p.m., the SDSC officers observed a black man, now known to be [REDACTED] in the front yard of [REDACTED] wielding a firearm.<sup>17</sup> Officers working Beats 1162A, 1163A and 1162D responded to the location.<sup>18</sup> At approximately 3:12 pm, Officer Fernando Ruiz, Officer Jacob Geary, and Officer Joel Venegas (Beat 1162D Tac Team) traveling in an unmarked Chicago Police SUV drove North on Leavitt, turned East on Adams, and arrived first to [REDACTED]<sup>19</sup> Officer Michael Baciu and Officer Tyler Alexander (Beat 1163A) traveling in an unmarked Chicago Police SUV also drove North on Leavitt, turned East on Adams, and arrived immediately after 1162D at [REDACTED]<sup>20</sup> Meanwhile, Officer Christopher Enter (Beat 1162A), remained at the SDSC room where he continued to monitor the POD and maintained contact with Officer Geary via cell phone.<sup>21</sup>

Immediately upon arrival, Officer Fernando Ruiz exited the back passenger side of an unmarked CPD vehicle and approached the driver’s side of a Pontiac Grand Prix where [REDACTED] was seated in the driver’s seat.<sup>22</sup> Officer Ruiz told COPA he recognized [REDACTED] immediately from the PODs and had recent intel from Officer Enter that [REDACTED] was armed with a gun in his back right pocket.<sup>23</sup> Indeed, Officer Ruiz told COPA that, Officer Enter, who had stayed behind to

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<sup>12</sup> The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including POD footage, neighborhood surveillance cameras, body worn camera (BWC) videos, 911 calls and radio transmissions, and Chicago Police Department (CPD), tactical response report (TRR), firearm registration records, firearm qualification history, and involved officers’ statements.

<sup>13</sup> Att. 10, Officer Ruiz Transcript Pg 23, Ln. 12-16.

<sup>14</sup> Att. 13, Officer Enter Transcript, Pg. 7, Ln. 3-4

<sup>15</sup> Att. 13, Officer Enter Transcript, Pg. 7, Lns. 3-14

<sup>16</sup> Att. 17, Various POD bookmarks showing gun movements; at 2:16; at 3:02

<sup>17</sup> Att. 10, Officer Ruiz Transcript, Pg. 9, Lns. 14-21; Att. 4 at 17:48

<sup>18</sup> Att. 32, OEMC Event Query

<sup>19</sup> Att. 14, Officer Geary Transcript, Pg. 8-9

<sup>20</sup> Att. 14, Officer Geary Transcript, Pg. 8-9

<sup>21</sup> Att. 13, Officer Enter Transcript, Pg. 13, Lns. 6-16

<sup>22</sup> Att. 4, at 27:30; and Att. 18 Surveillance footage at 7:48

<sup>23</sup> Att. 10, Ruiz Transcript, Pg. 28, Lns. 6-16; and Pg. 10, Lns. 4-5

continue monitoring via POD, communicated to the responding officers that ██████ had relocated the firearm from his waistband to his “back right pocket.”<sup>24</sup>

While approaching ██████ Officer Ruiz told COPA he maintained a “visual” on ██████ due to his relative height and because the Pontiac was set lower to the road than the Department-issued Ford Explorer.<sup>25</sup> As a result, Officer Ruiz told COPA he could see inside the vehicle.<sup>26</sup> Officer Ruiz told COPA he had a clear view of ██████ reaching “into his back pocket,” where “I know that the firearm is,” and then his suspicion was confirmed when he saw “the butt of the firearm,”<sup>27</sup> which he then saw in ██████ left hand. Officer Ruiz further stated that the vehicle’s window tint didn’t “have anything to do with it – because the door was open,” and he could see “clear as day.”<sup>28</sup> Officer Ruiz told COPA he provided verbal directions to ██████ to “stop reaching” or stop what he’s doing – but due to Officer’s Ruiz’s and his partners’ late BWC activation, no commands prior to the firearm discharge were captured.<sup>29</sup> Officer Geary believed that Officer Ruiz yelled “something to the effect of, like, “Don’t, stop.” “Don’t. Stop reaching” and then he heard gunfire.<sup>30</sup> Officer Baciu indicated that he heard Officer Ruiz giving commands once his gun was drawn, but was unable to state what Officer Ruiz was saying.<sup>31</sup> Officer Alexander likewise could not recall what Officer Ruiz said to ██████ prior to firing his weapon.<sup>32</sup>

At this point, Officer Ruiz told COPA he believed ██████ was “going to cause great bodily harm,” so he discharged 1 round followed by 10 additional rounds while retreating for cover.<sup>33</sup> The video footage of the incident shows that approximately one (1) second elapsed between Officer Ruiz’s exit from the squad car and the firing of his weapon.<sup>34</sup>

Officer Ruiz told COPA that he could no longer see ██████ after his first shot because he “closed the [Pontiac’s] door and pushed back to create distance.”<sup>35</sup> However, Officer Ruiz also stated that at the time that all of the discharges collectively felt like all one motion and he just “pulled the trigger.”<sup>36</sup> ██████ was struck 5 times about his body, sustaining gunshot wounds to his chest, left arm, left back and middle back area.<sup>37</sup> ██████ crawled out of the Pontiac’s passenger side door and laid on the parkway.<sup>38</sup> Officers rendered aid by applying a tourniquet to his arm and

<sup>24</sup> Att. 10, Officer Ruiz Transcript, Pg. 10, Lns. 4-5

<sup>25</sup> Att. 10, Officer Ruiz Transcript, Pg. 10, Lns. 14-24

<sup>26</sup> Att. 10, Officer Ruiz Transcript, Pg. 10, Lns. 14-24

<sup>27</sup> Att. 10, Officer Ruiz Transcript, Pg. 11, Lns. 6-7

<sup>28</sup> Att. 10, Officer Ruiz Transcript, Pg. 15, Lns. 21-23

<sup>29</sup> Att. 10, Officer Ruiz Transcript, Pg. 11, Lns 11-12

<sup>30</sup> Att. 14, Officer Geary Transcript, Pg. 17, Lns 8-12.

<sup>31</sup> Att. 11, Officer Baciu Transcript, Pg. 17, Lns 22-24; Pg. 18, Lns 1-3 (“[Officer Ruiz] yelled something while his firearm is drawn, and then after that I hear multiple shots.”)

<sup>32</sup> Att. 12, Officer Alexander Transcript, Pg. 9, lns 23-24; Pg. 10, Lns 1-4 (“I see Ruiz get out. He is saying something to the occupant of the vehicle. I don’t know exactly what he was saying, but I can – he’s saying something. I see him get right up on the door, then I see debris fly from the window, I can hear the gunshots and I can see Ruiz’s action on his firearm moving.”);

<sup>33</sup> Att. 10, Officer Ruiz Transcript, Pg. 11, Lns. 15-16; Att. 18, Surveillance footage at 7:50

<sup>34</sup> Att. 2 at 0:05.

<sup>35</sup> Att. 10, Officer Ruiz Transcript, Pg. 18, Lns. 2-3

<sup>36</sup> Att. 10, Officer Ruiz Transcript Pg. 18, Lns. 12-13

<sup>37</sup> Att. 61

<sup>38</sup> Att. 4, 27:45

notified OEMC of shots fired.<sup>39</sup> ██████ was taken to Stroger Hospital and went into surgery. Officer Ruiz went to Rush Hospital for breathing trouble but did not sustain any injury. ██████ injuries resulted in lower limb paralysis and the amputation of at least one of his legs.<sup>40</sup> On September 14, 2021, ██████ pleaded guilty to Unlawful Use or Possession of a Weapon by a Felon and was sentenced to 5 years of imprisonment.<sup>41</sup>

On scene, Evidence Technicians (ETs) recovered a Glock 19, 9mm, Semi-Automatic (Serial #BTWU724), from the front passenger side of the Pontiac.<sup>42</sup>

Finally, regarding body worn camera activation, Officer Ruiz stated he activated his BWC after he finished shooting and justified his delayed activation saying, he was not sure the individual observed on POD would still be there.<sup>43</sup> Officer Baciú was driving and is seen activating his BWC immediately after putting the car safely into park.<sup>44</sup> Officer Venegas told COPA he activated his BWC while inside the vehicle but could not recall if it was before the shots, only that he believed it was activated “instantaneously.”<sup>45</sup> Officer Geary, who was also driving a Department vehicle, told COPA he activated his BWC after the shots were fired and about 15 seconds after exiting the vehicle.<sup>46</sup> He justified the delayed activation saying, that typically when they respond to something observed on a POD camera the incident rarely turns into a “police function.”<sup>47</sup> Officer Alexander told COPA he activated his BWC immediately after hearing the first shot.<sup>48</sup> He further explained it is “pretty common” to respond to a scene observed on POD and by the time they arrive there is nobody there anymore.<sup>49</sup>

### III. ALLEGATIONS

#### **PO Fernando Ruiz:**

1. Failed to timely activate his body worn camera.
  - Sustained, in Violation of Rules 2, 5, 6, and 10
2. Discharged his firearm at or in the direction of ██████ without justification in violation of G03-02 and/or G03-02-01.
  - Not Sustained, in Violation of Rules 2, 5, 6, 8, 9, and 10
3. Discharged his firearm under circumstances where an individual was not clearly visible in violation of G03-02-03.II.D.5.

<sup>39</sup> Att. 37, Ruiz BWC at 2:30; and Att. 36, Geary BWC at 2:08

<sup>40</sup> Att. 105, Transcript of Guilty Plea, People v. ██████ 22CR1016701, Pg. 12, Lns 16-24, Pg. 13, Lns 1-8.

<sup>41</sup> Att. 105, Transcript of Guilty Plea, People v. ██████ 22CR1016701, Pg. 9, Lns 2-4 (Portion of the factual basis provided by the prosecution indicated that “Officer Ruiz saw the firearm handle, at which point [██████] pushed himself back and raised his firearm.”).

<sup>42</sup> Att. 102

<sup>43</sup> Att. 10, Officer Ruiz Transcript, Pg. 20, Lns. 4-19

<sup>44</sup> Att. 11, Officer Baciú BWC at 1:58

<sup>45</sup> Att. 15, Officer Venegas Transcript, Pg. 19, Lns. 11-14

<sup>46</sup> Att. 14, Officer Geary Transcript, Pg. 27, Ln. 16-18

<sup>47</sup> Att. 14, Officer Geary Transcript, Pg. 28, Ln. 3-12

<sup>48</sup> Att. 12, Officer Alexander Transcript, Pg. 10, Ln. 3-7

<sup>49</sup> Att. 12, Officer Alexander Transcript, Pg. 23, Ln. 18-24

- Sustained, in Violation of Rules 2, 5, 6, 8, 9, and 10

**PO Michael Baciu:**

1. Failed to timely activate his body worn camera.
  - Sustained, in Violation of Rules 2, 5, 6, and 10

**PO Joel Venegas:**

1. Failed to timely activate his body worn camera.
  - Sustained, in Violation of Rules 2, 5, 6, and 10

**PO Jacob Geary:**

1. Failed to timely activate his body worn camera.
  - Sustained, in Violation of Rules 2, 5, 6, and 10

**PO Tyler Alexander:**

1. Failed to timely activate his body worn camera.
  - Sustained, in Violation of Rules 2, 5, 6, and 10

**IV. CREDIBILITY ASSESSMENT**

COPA did not find sufficient evidence to doubt the credibility of any witnesses. Rather, any inconsistencies are likely attributed to a difference in perception or inability to accurately recall from memory, rather than any willful misrepresentation.

**V. ANALYSIS<sup>50</sup>**

**a. The preponderance of the evidence does not support a finding that Officer Ruiz discharged his weapon at [REDACTED] without justification.**

The Department's stated highest priority is the sanctity of human life. In all aspects of their conduct, the Department expects that its members act with the foremost regard for the preservation of human life and the safety of all persons involved.<sup>51</sup> Department members are only authorized to use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, to ensure the safety of a member or a third person, stop an attack, make an arrest, control a subject, or prevent escape.<sup>52</sup> This means Department members may use only the amount of force necessary to serve a lawful purpose. The amount and type of force used must be proportional to the threat, actions, and level of resistance a person offers.<sup>53</sup> The primary concern in assessing the use of force is whether the amount of force the officer used was objectively reasonable in light of the totality of the circumstances faced by the officer.<sup>54</sup> Factors to be considered by the officer may include, but are not limited to: (1) whether the person is posing an imminent threat to the officer or others; (2) the risk of harm, level of threat or resistance presented

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<sup>50</sup> For a definition of COPA's findings and standards of proof, *see* Appendix B.

<sup>51</sup> General Order G03-02 (II)(A).

<sup>52</sup> *Id.* at (III)(B).

<sup>53</sup> *Id.* at (III)(B).

<sup>54</sup> G03-02.III.B.1

by the person; and (3) the person's proximity to or access to weapons; (4) whether de-escalation techniques can be employed or would be effective; (5) the availability of other resources.<sup>55</sup>

As Officer Ruiz proceeded to the scene, he was aware that [REDACTED] was armed with a weapon. Officer Ruiz claims that he observed [REDACTED] reach into his back pocket, where Officer Ruiz was informed the firearm was located. Officer Ruiz further asserts that he observed [REDACTED] holding the butt of the firearm. At this time, [REDACTED] door was open. Officer Ruiz related that he could clearly see into the vehicle because his vehicle was set higher up than [REDACTED] Pontiac. COPA reviewed all available video evidence. However, COPA cannot confirm based upon that evidence that [REDACTED] in fact withdrew his firearm at the point Officer Ruiz asserts that he saw the weapon. Even if he did have the firearm in his hand, it is not clear that Officer Ruiz was justified in discharging his weapon at that time, as Officer Ruiz discharged his weapon within one second of exiting his vehicle, giving [REDACTED] no real opportunity to comply with commands. Due to the lack of sufficient evidence to either prove or disprove the allegation, COPA finds **Allegation #2 is Not Sustained**.

**b. Officer Ruiz violated Department policy by discharging his weapon at an individual that was not clearly visible.**

COPA finds by a preponderance of the evidence that Officer Ruiz's use of deadly force when he discharged his weapon at an individual who was not clearly visible was not objectively reasonable, necessary, or proportional. The Department's stated highest priority is the sanctity of human life. In all aspects of their conduct, the Department expects that its members act with the foremost regard for the preservation of human life and the safety of all persons involved.<sup>56</sup> Department members are only authorized to use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, to ensure the safety of a member or a third person, stop an attack, make an arrest, control a subject, or prevent escape.<sup>57</sup> This means Department members may use only the amount of force necessary to serve a lawful purpose. The amount and type of force used must be proportional to the threat, actions, and level of resistance a person offers.<sup>58</sup> The primary concern in assessing the use of force is whether the amount of force the officer used was objectively reasonable in light of the totality of the circumstances faced by the officer.<sup>59</sup> Factors to be considered by the officer may include, but are not limited to: (1) whether the person is posing an imminent threat to the officer or others; (2) the risk of harm, level of threat or resistance presented by the person; and (3) the person's proximity to or access to weapons; (4) whether de-escalation techniques can be employed or would be effective; (5) the availability of other resources.<sup>60</sup>

CPD policy prohibits firing a weapon when the person lawfully fired at is not clearly visible.<sup>61</sup> An officer is prohibited from using deadly force in such circumstances unless the

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<sup>55</sup> G03-02.III.B.1

<sup>56</sup> General Order G03-02 (II)(A).

<sup>57</sup> *Id.* at (III)(B).

<sup>58</sup> *Id.* at (III)(B).

<sup>59</sup> G03-02.III.B.1

<sup>60</sup> G03-02.III.B.1

<sup>61</sup> G.03-02-03.II.D.5

officer's discharge is "directed at a specific location and such force is necessary, based on the specific circumstances confronting the sworn member, to prevent death or great bodily harm to the sworn member or to another person."<sup>62</sup> In such circumstances, "the use of deadly force is permissible only if the member has identified the appropriate target prior to discharging the firearm and has taken precautions to minimize the risk that people other than the target will be struck."<sup>63</sup>

First, it was not objectively reasonable for Officer Ruiz to continue to fire when he could no longer see [REDACTED]. After his initial shot into [REDACTED] vehicle, Officer Ruiz continued to fire 10 more shots into the Pontiac. At this time, he could not see whether [REDACTED] posed an imminent threat. In fact, Officer Ruiz told COPA that he could no longer see [REDACTED] after his first shot because he "closed the [Pontiac's] door and pushed back to create distance."<sup>64</sup> Additionally, the windows of the Pontiac were tinted, making it impossible to clearly see what was happening inside the vehicle. Notably, no other officers discharged their weapons into the vehicle. Officer Ruiz had no reason to believe that [REDACTED] posed an imminent threat at that time. Officer Ruiz would have had to acquire additional information that led him to conclude that, once he shut the door, [REDACTED] began to pose an imminent threat. Here, Officer Ruiz could not see [REDACTED] once he shut the door, and therefore could not assess whether [REDACTED] posed any type of threat. Nevertheless, he continued to fire.

Additionally, COPA finds that Officer Ruiz failed to use de-escalation techniques to prevent or reduce the need for the use of force and did not use deadly force as an option of last resort. During all use of force incidents, Department members are required to use de-escalation techniques to prevent or reduce the need for force, unless doing so would place a person or a Department member in immediate risk of harm, or de-escalation techniques would be clearly ineffective under the totality of the circumstances.<sup>65</sup> Officers are expected to modify the use of force as circumstances change and in ways that are consistent with officer safety, including stopping the use of force when it is no longer necessary.<sup>66</sup> These concepts of force mitigation include but are not limited to: providing a warning and exercising persuasion and advice prior to the use of force; determining whether the member may be able to stabilize the situation through the use of time, distance, or positioning to isolate and contain a subject (e.g., establishing a zone of safety); requesting additional personnel to respond or make use of specialized units or equipment including crisis-intervention-team trained officers, as necessary and appropriate.<sup>67</sup>

Here, the evidence shows that Officer Ruiz failed to employ force mitigation tactics after firing his initial shot and losing sight of [REDACTED]. Specifically, he did not use time as a tactic to assess [REDACTED] level of threat at this point. Additionally, he did not modify his use of force as the circumstances changed. Rather than stopping to reassess, he continued to force even when no longer necessary and even though could not see [REDACTED].

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<sup>62</sup> G03-02-03.II.D.5

<sup>63</sup> G03-02-03.II.D.5

<sup>64</sup> Att. 10, Officer Ruiz Transcript, Pg. 18, Lns. 2-3

<sup>65</sup> G03-02.III.C

<sup>66</sup> G03-02.III.C.2

<sup>67</sup> G03-02.III.C.2

For all of these reasons, COPA finds by a preponderance of the evidence that Officer Ruiz thus violated CPD policy and **Allegation 3 is Sustained.**

**c. Officers Ruiz, Baciú, Venegas, Geary, and Alexander failed to timely activate their BWCs.**

COPA finds by a preponderance of the evidence that Officer Ruiz, Baciú, Venegas, Geary, and Alexander all failed to timely activate their body worn cameras (BWC) at the beginning of the incident. Allegation #1 against each listed officer is therefore Sustained. To increase transparency and improve the quality and reliability of investigations, Department policy mandates all law-enforcement-related encounters be electronically recorded on an officer's BWC.<sup>68</sup> Law-enforcement-related encounters include, but are not limited to, calls for service, investigatory stops, traffic stops, seizure of evidence, statements made by individuals in the course of an investigation, arrests, use of force incidents, high risk situations, any encounter with the public that becomes adversarial after the initial contact, emergency driving situations and emergency vehicle responses where fleeing suspects or vehicles may be captured on video leaving the crime scene, and any other instances when enforcing the law.<sup>69</sup> The recording of law-enforcement-related encounters is mandatory.<sup>70</sup> Officers must activate their BWCs at the beginning of an incident and record the entire incident.<sup>71</sup> If there are circumstances preventing the activation of the BWC at the beginning of an incident, the officer "will activate the BWC as soon as practical."<sup>72</sup>

The preponderance of the evidence shows that none of the officers activated their BWCs while traveling to the scene to investigate the report of a man with a gun. In fact, no officer activated their BWC before Officer Ruiz fired his weapon. The officers explained that they did not turn their BWCs on while en route because, in their past experience, oftentimes they would arrive at location and the person of interest would be gone. Their explanations are troubling. The officers were involved in law enforcement activity, namely to investigate a man with a gun at a house known for moving various types of firearms. While on their way, they were receiving live updates from Officer Enter as to the man's whereabouts. The officers were thus undertaking law enforcement activities, including but not limited to investigatory stop, high risk situations, and traffic stops, and should have had their BWCs activated while en route to the location. The officers failed to do so. This was not an on-view incident. Rather, this was a concerted effort by the officers to conduct an investigatory stop. The officers' failure to timely activate their BWCs interfered with COPA's ability to obtain audio of portions of the incident, especially Officer Ruiz's alleged commands to [REDACTED] prior to his firearm discharge. As such, Allegation #1 against each respective officer - Officer Ruiz, Baciú, Venegas, Geary, and Alexander – is Sustained.

## **VI. DISCIPLINARY RECOMMENDATION**

### **a. Officer Fernando Ruiz**

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<sup>68</sup> S03-14.II.A

<sup>69</sup> S03-14.III.2

<sup>70</sup> S03-14.III.1

<sup>71</sup> S03-14.III.2

<sup>72</sup> S03-14.III.2

**i. Complimentary and Disciplinary History<sup>73</sup>**

Officer Fernando Ruiz has received 69 complimentary awards, including 60 honorable mentions and three Department commendations. Officer Ruiz received a reprimand for a preventable accident in 2023, and a 1-day suspension for an operations violation in 2019.

**ii. Recommended Discipline**

COPA has considered Officer Ruiz's complimentary history and disciplinary history. In this case, Officer Ruiz used deadly force when the individual was not clearly visible and failed to timely activate his BWC. ██████ suffered significant injuries as a result of this encounter. Unauthorized use of force is a serious violation of Department policy and significantly undermines the Department's credibility with the public. Therefore, COPA recommends separation.

**b. Officer Michael Baciu**

**i. Complimentary and Disciplinary History<sup>74</sup>**

Officer Michael Baciu has received 87 complimentary awards, including 80 honorable mentions, and two top gun arrest awards. Officer Baciu received a 5-day suspension for a 2020 traffic violation. Officer Baciu has also received four separate reprimands for failure to submit a report (2020 and 2021), an equipment violation (2023), and a preventable accident (2022).

**ii. Recommended Discipline**

COPA has considered Officer Baciu's complimentary history and disciplinary history. Officer Baciu failed to timely activate his BWC. COPA recommends a suspension of up to 10 days.

**c. Officer Joel Venegas**

**i. Complimentary and Disciplinary History<sup>75</sup>**

Officer Joel Venegas has received 134 complimentary awards, including 126 honorable mentions, and three Department commendations. Officer Venegas has received two reprimands, both in 2023, one for neglect of duty in 2023, and another for failure to perform assigned tasks.

**ii. Recommended Discipline**

COPA has considered Officer Venegas' complimentary history and disciplinary history. Officer Venegas failed to timely activate his BWC. COPA recommends a suspension of up to 10 days.

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<sup>73</sup> Att. 106

<sup>74</sup> Att. 106

<sup>75</sup> Att. 106

**d. Officer Jacob Geary**

**i. Complimentary and Disciplinary History<sup>76</sup>**

Officer Jacob Geary has received 126 complimentary awards, including 112 honorable mentions, and eight Department commendations. Officer Geary has received one reprimand in 2023 for a preventable accident. Officer Geary also received a violation noted for an incident in 2022 where he failed to submit a report.

**ii. Recommended Discipline**

COPA has considered Officer Geary’s complimentary history and disciplinary history. Officer Geary failed to timely activate his BWC. COPA recommends a suspension of up to 10 days.

**e. Officer Tyler Alexander**

**i. Complimentary and Disciplinary History<sup>77</sup>**

Officer Tyler Alexander has received 76 complimentary awards, including 72 honorable mentions, and two Department commendations. Officer Alexander has received three reprimands, all for 2023 incidents. Officer Alexander’s reprimands were for failure to submit a report, failure to perform assigned tasks, and an equipment violation. Officer Alexander also received a 1-day suspension for a preventable accident in 2022.

**ii. Recommended Discipline**

COPA has considered Officer Alexander’s complimentary history and disciplinary history. Officer Baci failed to timely activate his BWC. COPA recommends a suspension of up to 10 days.

Approved:

[Redacted Signature]

Sharday Jackson  
*Deputy Chief Administrator – Chief Investigator*

January 26, 2024  
Date

[Redacted Signature]

Andrea Kersten  
*Chief Administrator*

January 26, 2024  
Date

<sup>76</sup> Att. 106  
<sup>77</sup> Att. 106

Appendix ACase Details

Date/Time/Location of Incident:	August 12, 2022 / 3:12 pm / ██████████ Chicago, Illinois
Date/Time of COPA Notification:	August 12, 2022, 3:27 pm
Involved Officer #1:	Fernando Ruiz, Star #12935, Employee ID # ██████████, Date of Appointment: March 16, 2017, Unit 011/193, Male, WHH
Involved Officer #2:	Michael Baciu, Star #7528, Employee ID # ██████████, Date of Appointment: August 16, 2017, Unit 011, Male, White
Involved Officer #3:	Joel Venegas, Star #17374, Employee ID # ██████████, Date of Appointment: December 12, 2016, Unit 011, Male, WHH
Involved Officer #4:	Jacob Geary, Star #11057, Employee ID # ██████████, Date of Appointment: May 16, 2017, Unit 011, Male, White
Involved Officer #5:	Tyler Alexander, Star #17587, Employee ID ██████████, Date of Appointment: August 16, 2019, Unit 011, Male, White

Applicable Rules

- Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.
- Rule \_\_:** *[Insert text of any additional rule(s) violated]*

## Applicable Policies and Laws

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### Appendix B

#### **Definition of COPA's Findings and Standards of Proof**

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 allegation 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.<sup>78</sup> For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD 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. 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.”<sup>79</sup>

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<sup>78</sup> 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 is found to be more probably true than not).

<sup>79</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4<sup>th</sup> ed. 2000)).

**Appendix C****Transparency and Publication Information**

Check all that apply:

- Abuse of Authority
- Body Worn Camera Violation
- Coercion
- Death or Serious Bodily Injury in Custody
- Domestic Violence
- Excessive Force
- Failure to Report Misconduct
- False Statement
- Firearm Discharge
- Firearm Discharge – Animal
- Firearm Discharge – Suicide
- Firearm Discharge – Unintentional
- First Amendment
- Improper Search and Seizure – Fourth Amendment Violation
- Incidents in Lockup
- Motor Vehicle Incidents
- OC Spray Discharge
- Search Warrants
- Sexual Misconduct
- Taser Discharge
- Unlawful Denial of Access to Counsel
- Unnecessary Display of a Weapon
- Use of Deadly Force – other
- Verbal Abuse
- Other Investigation