

## SUMMARY REPORT OF INVESTIGATION

### I. EXECUTIVE SUMMARY

Date of Incident:	December 5, 2019.
Time of Incident:	10:00 A.M.
Location of Incident:	██████████ Chicago, IL 60624.
Date of COPA Notification:	December 5, 2019.
Time of COPA Notification:	11:38 A.M.

At approximately 10:00 a.m. on December 5, 2019, at or near ██████████ Chicago, IL 60624. **Accused Police Officers William Robles (“Officer Robles”)**, Star #19200, and **Daniel Rodriguez (“Officer Rodriguez”)**, Star #9766, both from the 11th District, were parked outside of the Complainant’s, ██████████ (██████████ residence for several minutes. According to ██████████ two male Chicago Police Officers, in plain clothes, in a silver-grey unmarked SUV, came up to the apartment’s door and made entry into the apartment vestibule. The two officers tried kicking in her apartment door but were unsuccessful. The officers then departed the area. ██████████ called for a sergeant come to her home. Sgt. Archer #2346 arrived and called for an evidence tech to take pictures of the damage to both doors.

██████████ alleges two Chicago Police Department officers who appeared to be white, or light skinned Hispanic; in plain clothes, wearing black skull caps and who were in an unmarked grey/silver SUV, tried to break into her apartment, without a warrant or a reason to do so. She also alleges, the officers disrespected her by saying, ““Chicago Police, open this door or I’ll shoot through it” and “open the fuckin door!”

### II. INVOLVED PARTIES

Involved Officer #1:	William Robles, Star #19200, Employee ID# ██████████, Date of Appointment: 11-24-2014, Rank: P.O., Unit of Assignment: 011, DOB: ██████████-1987, Gender: Male, Race: White.
Involved Officer #2:	Daniel Rodriguez, Star #9766, Employee ID# ██████████, Date of Appointment: 06-27-2016, Rank: P.O., Unit of Assignment: 011, DOB: ██████████-1989, Gender: Male, Race: White.
Involved Individual #1:	██████████ DOB: ██████████-1970, Gender: Female, Race: African American.

### III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer William Robles	It is alleged by [REDACTED] that on or about December 5, 2019, at approximately 10:05 am at or near [REDACTED] Chicago, IL 60624. Officer Robles committed misconduct in that he.	
	1. Made an unlawful entry into [REDACTED] apartment building without justification.	Not Sustained
	2.Said words of the effect of “open the fuckin door.”	Not Sustained
	3.Caused damage to [REDACTED] apartment door without justification.	Not Sustained
	4. Used his authority as a Chicago Police Department officer to influence a citizen to enter the apartment building without justification by saying words to the effect of, “Chicago Police, open this door or I’ll shoot through it.”	Not Sustained
	5.Threatened to use deadly force without justification by saying words to the effect of, “Chicago Police, open this door or I’ll shoot through it.”	Not Sustained
Officer Daniel Rodriguez	It is alleged by [REDACTED] that on or about December 5, 2019, at approximately 10:05 am at or near [REDACTED] Chicago, IL 60624. Officer Rodriguez committed misconduct in that he;	
	1.Made an unlawful entry into [REDACTED] apartment building without justification.	Sustained
	2.Said words of the effect of “open the fuckin door.”	Sustained

3. Caused damage to [REDACTED] apartment door without justification.	Sustained
4. Used his authority as a Chicago Police Department officer to influence a citizen to enter the apartment building without justification by saying words to the effect of, "Chicago Police, open this door or I'll shoot through it."	Not Sustained
5. Threatened to use deadly force without justification by saying words to the effect of, "Chicago Police, open this door or I'll shoot through it."	Not Sustained
6. Failed to comply with S03-14 by failing to activate his body worn camera.	Sustained

#### IV. APPLICABLE RULES AND LAWS

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##### Rules

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1. **Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
  2. **Rule 4:** Any conduct or action taken to use the official position for personal gain or influence.
  3. **Rule 6:** Disobedience of any order or directive; whether written or oral.
  4. **Rule 8:** Disrespect or maltreatment of any person on or off duty.

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##### General Orders

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1. **G03-02-08:** Use of Force.
  2. **G08-05:** Prohibition of Retaliation.
  3. **G02-01:** Human Rights and Human Resources.

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##### Special Orders

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1. **S03-14:** Body Worn Cameras.
  2. **G03-02-01:** Response to Resistance and Force Options.

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##### Federal Laws

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

**V. INVESTIGATION**

**a. Interviews**

In her video-recorded interview with COPA on December 10, 2019, <sup>1</sup> **Complainant**, ██████████ (██████████) stated that she was in her bedroom, while her son, who was in the living room, heard kicking on their door. She walked towards the front door and saw an officer at her door, kicking it. The officer said “CPD.” She responded with, “Do you have a search warrant or a warrant.”<sup>2</sup> The officer responded with, “I am going to shoot through this mother fucking door.”<sup>3</sup> She looked through the window and saw one officer jumping over the gate and standing by the grass. She thinks the officers were Hispanic or white. The officer who was kicking in her door was wearing blue jeans, a vest, and a star, with a gun on his side. The other officer, who was standing outside, was wearing black jeans, black vest, and a skull cap. She thinks the officer kicked on her door five or six times, which lead the door frame to break and the first door to the building to be kicked in. She stated, “The officers were there for about two minutes.”<sup>4</sup> The vehicle that they departed in was an unmarked SUV with a license plate that started with “MP.” She called OEMC and a sergeant arrived at her house soon after. The sergeant called for someone to take pictures of the door.

In his interview with COPA on December 17, 2020, **Sergeant Steven Archer #2346**,<sup>5</sup> stated he arrived at ██████████ due to a call from OEMC regarding the complainant, ██████████ requesting a supervisor come to her residence, on the account of two possible CPD entering her apartment without a warrant. ██████████ stated that she was inside her residence when she heard banging at her front door. Two males, dressed in all black, each with a CPD star, got out of a grey unmarked SUV with M-plates. One officer stated, “Chicago Police. Open the fuckin door,” and “Chicago Police. Open the door or I will shoot through it.” The front door to the building was then kicked in and ██████████ apartment door was damaged as well. She said the officers were there for only a couple minute and then left. Sgt. Archer called for an evidence technician, who took pictures of the door. He wrote a case report and an initiation report and departed the area.

In his interview with COPA on May 6, 2021, accused **Police Officer Rodriguez #9766**,<sup>6</sup> stated that he was on routine patrol with his partner, Officer Robles #19200, in the area of ██████████ ██████████ That address is known for drug transactions. He observed a cash transaction between two male subjects; one was standing behind the fence, and one was standing outside of the fence. After the cash transaction, and upon the officers’ arrival, the male that was inside the fence ran into the residence of ██████████ and the other male ran away. Officer Rodriguez stated, “I did kick the initial door, the multi-unit door to that lead to the vestibule area. I believe I had exigent circumstances. As we approached the block of ██████████, maybe 20 ft a head of our car, I see male

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<sup>1</sup> Attachment #3.

<sup>2</sup> Attachment #3 at 4:45.

<sup>3</sup> Attachment #3 at 5:00.

<sup>4</sup> Attachment #3 at 11:35.

<sup>5</sup> Attachment #43.

<sup>6</sup> Attachment #55.

one conducting a hand-to-hand transaction between the gate, with an unknown subject. There was an exchange of small item, money. He looked in my direction, turned, and held his side and ran into the building.”<sup>7</sup> Once Officer Rodriguez entered the building, he tried to bang hard on left side apartment door to get in where ██████ resides. He stated, “I announced my office and told her to open up the door and she did not open the door and we were at a standstill for a brief amount of time.”<sup>8</sup> He noted that he did not see the male go into the left apartment door, but that it was a guess that is where he went. He stated he might have said words to the effect of, “Chicago Police open this fucking door.”<sup>9</sup> He did not say, “Open this door, or I will shoot through it.”<sup>10</sup> The whole incident lasted about 45 seconds to 1 minute. Officer Rodriguez added, “I only had 2 1/2 or 3 years on the job at that time, and I did not know what to do. We didn’t have an offender or subject. So basically, called it a day with the incident.”<sup>11</sup> He stated that his Body Worn Camera (BWC) should have been activated during this incident.

In his COPA interview on June 7<sup>th</sup>, 2021, accused **Police Officer Robles #19200**,<sup>12</sup> stated he was in the area due to a narcotics investigation. He observed a hand-to-hand transaction between two male individuals. He exited the vehicle and walked around the back of the unmarked CPD vehicle, since he was the passenger. By the time he walked around the vehicle, he saw the individuals running away. He did not recall what direction they both left or the description of the male and the offender. When Officer Robles saw the residence of ██████ he observed his partner, Officer Rodriguez #9766, right by the vestibule of the front door of the apartment building, walking away from the residence. He stated, “I ran towards ██████ never made entry, and was most likely standing on the sidewalk.”<sup>13</sup> When asked if he kicked in the front door of the apartment building, he responded with, “Negative. I never made it up there.”<sup>14</sup> He said the incident lasted for approximately 30 seconds. During the interview, he admitted that he should have had his BWC on during this incident.

#### **b. Digital Evidence**

There is no **Body Worn Camera (BWC)** for this incident. Officer Robles and Officer Rodriguez did not active their BWC for this incident that occurred approximately at 10:00 a.m.

#### **c. Documentary Evidence**

The **Initiation Report**<sup>15</sup> indicates, Sgt. Archer arrived at ██████ Chicago, IL from a OEMC dispatch call for a supervisor. ██████ said two unknown male officers tried to kick in the front door of the apartment building and then tried to kick in her apartment door and stated, “Chicago Police or I’ll shoot through it” they departed the area in a grey unmarked SUV.

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<sup>7</sup> Attachment #55 t 12:25.

<sup>8</sup> Attachment #55 at 17:15.

<sup>9</sup> Attachment #55 at 19:40.

<sup>10</sup> Attachment #55 at 19:50.

<sup>11</sup> Attachment #55 at 18:20.

<sup>12</sup> Attachment #59.

<sup>13</sup> Attachment #59 at 11:05.

<sup>14</sup> Attachment #59 at 12:50.

<sup>15</sup> Attachment #1.

The **Case Report**, ██████████<sup>16</sup> depicts, criminal trespass to residence and criminal damage to property. ██████████ indicates that she heard a large bang at her residence door and saw it was two police officers. The officers tried to kick in the front door of the apartment and tried to kick in her apartment door. The officer said, “This is Chicago Police, open the fuckin door, open the door now or I’ll shoot through the door.” The two officers departed the area in a gray SUV. Evidence technician was called to the scene in the event that the officers were Chicago Police Officers.

The **Service Call**, #██████████<sup>17</sup> shows, ██████████ called dispatch at 10:08 a.m., stated two officers were there trying to kick in her door and she wants a supervisor to her residence.

The **GPS Units on The Block Map**,<sup>18</sup> shows vehicle # 4919 was less than 500 feet away from the residence for a couple minutes.

The **Caboodle GPS search**,<sup>19</sup> shows an arrest that occurred by Officer Robles and Officer Rodriguez at 10:50 a.m. Officers Robles and Rodriguez are in vehicle #4919. PC number PC0AU28 that is attached to that vehicle goes back to Officer Robles.

## 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** is evidence indicating that it is **more likely than not** that the a proposition is proved.<sup>20</sup> 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.

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<sup>16</sup> Attachment #1.

<sup>17</sup> Attachment #41.

<sup>18</sup> Attachment #12.

<sup>19</sup> Attachment #37.

<sup>20</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 has found to be more probably true than not).

**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.<sup>21</sup> 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>22</sup>

## VII. ANALYSIS

### *1. Officers made an unlawful entry into [REDACTED] apartment building without justification.*

The Fourth Amendment of the United States Constitution and the Illinois Constitution of guarantee the right of individuals to be free from unreasonable searches and seizures. Under the Fourth Amendment, the home is “first among equals.”<sup>23</sup> “At the Amendment’s ‘very core’ stands’ the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.”<sup>24</sup>

In this case, Officer Rodriguez did invade a constitutionally protected space when he kicked in the exterior door of the apartment building and entered the vestibule.<sup>25</sup> He conceded that he that he did kick in the front door to the apartment building that [REDACTED] resides. His stated reason for doing so was for exigent circumstances because he was in “hot pursuit” of a suspect he had seen engage in a hand-to-hand cash transaction. The suspect ran into the building when the officers approached. This does not rise to the level justifying entry under exigent circumstances.

First, the exception requires that there be probable cause that the subject had committed a crime, which did not exist here.<sup>26</sup> The officers conceded that they only witnessed a cash transaction, of unknown value, and they did not see any contraband exchanged. A single hand to hand transaction of unknown items, even when coupled with furtive movements in a high crime area, do not constitute probable cause.<sup>27</sup>

Second, even if there were probable cause, Officer Rodriguez’s entry into the apartment was improper. Several factors have been identified as being relevant to the question of whether a given factual situation creates an exigent circumstance which justifies the warrantless entry into a home by police, including when: (1) there is involved a grave offense, particularly a crime of

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<sup>21</sup> See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016).

<sup>22</sup> *Id.* at ¶ 28.

<sup>23</sup> *People v. Burns*, 2016 IL 118973, ¶ 24 (quoting *Florida v. Jardines*, 569 U.S. 1, 6 (2013)).

<sup>24</sup> *Id.*

<sup>25</sup> See *People v. Burns*, 2016 IL 118973, ¶ 24 (finding the search of the landing outside an apartment door to violate the Fourth Amendment because “[t]he area ‘immediately surrounding and associated with the home’—what our cases call the curtilage” is regarded as “part of the home itself for Fourth Amendment purposes.”); *People v. Murphy*, 2016 IL App (1st) 133748-U, ¶ 29 (finding that the vestibule of a Chicago two-flat was protected stating, “we hold that the small area between defendant’s apartment and the building’s front door constituted curtilage, and thus, a constitutionally protected space.”).

<sup>26</sup> See *People v. Wear*, 229 Ill. 2d 545, 562-63 (2008)(discussing the requirement that there be probable cause prior to invoking the exigent circumstances or hot pursuit exceptions to the warrant requirement).

<sup>27</sup> *People v. Trisby*, 2013 IL App (1st) 112552, ¶ 17 (holding that “probable cause is not established by a single hand-to-hand transaction involving an unidentified object together with a few furtive hand movements toward a pants pocket” in an area described as a “high narcotics area.”).

violence; (2) the suspect is reasonably believed to be armed; (3) there exists a clear showing of probable cause; (4) there is strong reason to believe that the suspect is in the premises; (5) there is a likelihood the suspect will escape if not swiftly apprehended; and (6) the police entry, though nonconsensual, is made peaceably.<sup>28</sup>

In this case while there was a reason to believe the suspect was inside the apartment building, the other factors were not met. As discussed, there was not probable cause, let alone a strong showing of probable cause. The subject was wanted for, at most, a drug offense, it was not a crime of violence. There also was not any basis to believe he was armed. Most crucially, the manner in which Officer Rodriguez made entry was far from peaceable. He kicked open one locked door and began attempting to kick open another he kicked Ms. [REDACTED] door not knowing if the suspect went into that apartment.

Breaking into an apartment building, being a CPD officer without a warrant, and without exigent circumstances, is a violation of the 4<sup>th</sup> Amendment and illegal. The Department is committed to ensuring the actions of its members are lawful, ethical, and serve a proper law enforcement purpose knowing that the conduct or actions of a single Department member may impair public trust and confidence or cast suspicion and disrespect upon the entire Department.<sup>29</sup> While there is no BWC, and no third-party video capturing this incident. Officer Rodriguez admitted that he was the officer that entered. Therefore, the allegation that Officer Rodriguez made an unlawful entry into [REDACTED] apartment building without justification, is **sustained**.

However, **Officer Robles** stated in his COPA interview that he did not enter the residence; and did not kick in the front door. This is corroborated by Ms. [REDACTED] who says that she spoke with an officer, which appears to be Officer Robles, through her front window as the other officer was kicking her door. It is possible for one officer to be liable for the Fourth Amendment violations of his partner, if, they had reason to know that a constitutional violation has been committed and they had a realistic opportunity to intervene to prevent the harm from occurring,<sup>30</sup> Officer Robles' involvement did not rise to that level. He reasonably should have known that there was no justification to enter the home, however, there is no evidence to support that he could have intervened.<sup>31</sup> He said that Officer Rodriguez had already entered the home in the time it took to exit the vehicle and enter the yard, and the incident was over shortly thereafter. Therefore, the allegation that Officer Robles made an unlawful entry into [REDACTED] apartment building without justification to be **not sustained**.

## *2. Officers said words of the effect of "Open the fuckin door."*

The Chicago Police Department is committed to interacting with individuals in crisis with dignity, respect, and the foremost regard for the preservation of human life and the safety of all persons involved.<sup>32</sup> Additionally, department members are required to act with a high degree of

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<sup>28</sup> *People v. Smith*, 152 Ill. 2d 229, 248-49 (1992).

<sup>29</sup> G08-05: Prohibition of Retaliation.

<sup>30</sup> *Lanigan v. Village of East Hazelcrest*, 110 F.3d 467, 477 (7th Cir. 1997).

<sup>31</sup> Additionally, Ms. [REDACTED] stated that after speaking with Officer Robles, he said something to Officer Rodriguez and not long after the two left. Therefore, it's possible that Officer Robles did intervene, however, there is insufficient evidence to make that finding.

<sup>32</sup> Special Order S04-20, 11. A-1.

ethics, professionalism, and respect for the public, treat all persons with courtesy and dignity, and act speak and conduct themselves in a professional manner.<sup>33</sup> Additionally, Department rules prohibit “disrespect to, or maltreatment of, any person.”<sup>34</sup>

Officer Rodriguez stated in his COPA interview, “I probably said words to the effect of Chicago Police open the fucking door, but I know I said Chicago Police.”<sup>35</sup> Ms. [REDACTED] also stated that he had said this. Chicago Police Department members are expected to interact with civilians with dignity and respect. Stating words to the effect of, “Open the fucking door” is not respectful and does not show the dignity that the Department requires, especially when the demand he is making is unlawful. No Chicago Police Department member should say anything that would be disrespectful because they represent the Department and treating everyone with dignity and respect is necessary to promote good relationships between the Department and the citizens they work to serve and protect. Thus, the allegation that Officer Rodriguez said words to the effect of “Open the fucking door” is **sustained**.

In Officer Robles COPA interview, he stated,<sup>36</sup> Ms. [REDACTED] corroborates that he did not come to the door, and she never heard him. As with the prior allegation, there is insufficient evidence to establish he was aware of Officer Rodriguez’s disrespectful conduct, or could intervene, therefore Allegation 2 against him is **not sustained**.

3. *Officers caused damage to [REDACTED] apartment door without justification.*

[REDACTED] explained in her COPA interview, that the front door to the apartment was kicked, causing damage to the door; her apartment door was damaged, as well, by the officer trying to gain entry to her residence. The Case Supplementary Report made regarding this incident details the damaged property to be around eight-hundred dollars.<sup>37</sup> The pictures that were taken by Evidence Technician, Officer Beam #18853, shows the damage to the doors.<sup>38</sup> Officer Rodriguez explained in his COPA interview that he was the officer who kicked in the front door, and the one who tried to gain entry to [REDACTED] apartment. Thus, there is no question as to which officer caused the damage.

Moreover, as described above he had no justification to even enter the building, let alone do so by breaking the door. He also admitted to not knowing the suspect had entered Ms. [REDACTED] apartment, and he was not justified entering there. Therefore, the allegation that Officer Rodriguez caused damage to [REDACTED] apartment door, without justification, is **sustained**.

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<sup>33</sup> G08-05.

<sup>34</sup> Chi. Police. Dept Rule 8. In addition, the Department’s Standards of Conduct, standard 6, states: ” The practice of courtesy in all public contacts encourages understanding and appreciation; discourtesy breeds contempt and resistance. The majority of the public are law abiding citizens who rightfully expect fair and courteous treatment by members of the Department. While the urgency of a given situation would demand firm action, discourtesy or disrespect shown toward and citizen is indefensible. The practice of courteous and respectful conduct by a member is not a manifestation of weakness; it is, on the contrary, entirely consistent with the firmness and impartiality that characterizes a professional police officer.”

<sup>35</sup> Attachment #55 at 19:40.

<sup>36</sup> Attachment #59 at 14:29.

<sup>37</sup> Attachment #45.

<sup>38</sup> Attachment #33. Damage can also be seen on Sgt. Archer’s body worn camera footage.

As stated before, Officer Robles said he never went into the building. Ms. ██████ corroborates that he did not come to the door, and that only one officer was doing damage. As with the prior allegation, there is insufficient evidence to establish he was aware of Officer Rodriguez's property damage, or could intervene, therefore Allegation 3 against him is **not sustained**.

4. *Officers used their authority as a Chicago Police Department officer to influence a citizen to enter the apartment building without justification by saying words to the effect of, "Chicago Police, open this door or I'll shoot through it."*

Department members are prohibited from engaging in retaliation, which includes conduct or action of an intimidating or threatening nature intended to improperly influence the individual's actions.<sup>39</sup>

Ms. ██████ stated that as the officer (now known to be Officer Rodriguez) was attempting to kick in her interior door, she asked for a warrant, and he responded with words to the effect of "Chicago Police, open this door or I'll shoot through it." As discussed above, Officer Rodriguez was not justified in entering the apartment. Moreover, use of threats would not be a justifiable manner to obtain consent to enter.<sup>40</sup> If Officer Rodriguez made this threat, it would violate the rules against retaliation.

However, there is not a preponderance of the evidence that he made this threat. He denied doing so, and while that does not invalidate Ms. ██████ allegation, the existing evidence is insufficient to support her. In her three initial calls to 911, Ms. ██████ did not mention the threats. She only stated that officers had kicked in her door.<sup>41</sup> COPA cannot find by a preponderance of the evidence that he made this threat. Therefore, allegation 4 is **not sustained**. Similarly, COPA does not have sufficient evidence to find that Officer Robles made this threat and the allegation against him is also **not sustained**.

5. *Officers threatened to use deadly force without justification by saying words to the effect of, "Chicago Police, open this door or I'll shoot through it."*

In addition to the above referenced prohibitions on retaliation, the Department's Use of Force policy prohibits force as retaliation,<sup>42</sup> and prohibits firing through doors.<sup>43</sup> It also only permits shooting to stop an imminent threat of death or great bodily harm, and Officer Rodriguez made no

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<sup>39</sup> The full definition of "retaliation" states: Retaliation is defined as any conduct, action, or inaction of a damaging, intimidating, or threatening nature, or any interference, intimidation, coercion, or other adverse action taken against any individual designed to serve as retribution that is intended to punish, cause harm or emotional stress, or improperly influence the individual's actions." *see* Prohibition of retaliation G08-05, Policy 111, F.

<sup>40</sup> *United States v. Thurman*, 889 F.3d 356, 367 (7th Cir. 2018) ("The Fourth Amendment requires that 'consent not be coerced, by explicit or implicit means, by implied threat or covert force.'") (quoting *Schneckloth v. Bustamonte*, 412 U.S. 218, 228 (1973))

<sup>41</sup> COPA commends Ms. ██████ for reporting misconduct, and this finding is not an indication that she is lying, it is a recognition that in stressful situations such as this, people misremember what occurred.

<sup>42</sup> G03-02, III, 5.

<sup>43</sup> *Id.* At III, D, 5.

claim that he faced such a threat.<sup>44</sup> Therefore, using deadly force in this situation was prohibited, and if Officer Rodriguez had threatened deadly force, he would be threatening an unlawful action. However, for the reasons stated above, there is not a preponderance of the evidence that either officer made the threat, and Allegation 5 against each officer is **not sustained**.

6. *Officers failed to comply with S03-14 by failing to activate their body worn camera.*

The Department is committed to protecting the safety and welfare of the public as well as its members. Audio and visual recordings from the body-worn camera (BWC) can improve the quality and reliability of investigations and increase transparency. Members will be trained prior to the assignment and utilization of the BWC. Any member who knowingly fails to comply with this directive will be subject to progressive discipline, training, or other remedial action according to current Department policies.<sup>45</sup> The policy requires officers to activate their cameras at the beginning of law enforcement related activities, and expressly states that foot pursuits are law enforcement related activities.<sup>46</sup>

Officer Robles and Officer Rodriguez failed to activate their Body Worn Cameras (BWC) during this incident. Officer Rodriguez's and Officer Robles's both admitted that their BWCs should have been on since they were taking law enforcement action. Thus, the allegation that the Officers failed to activate their Body Worn Cameras is **sustained**.

## VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Officer Robles

#### i. Complimentary and Disciplinary History

1. Officer Robles has received; a 2019 Crime Reduction; Award, Attendance Recognition Award, two Department Commendations, Emblem of Recognition- Physical Fitness, eighteen Honorable Mentions and a Military Service Award.

2. Officer Robles disciplinary history is: a SPAR from October 2020, for a Court Appearance Violation, two SPARS in October 2020, for Failure to Perform Assigned Tasks, two SPARS in November 2020, for Failure to Perform Assigned Tasks, and a SPAR in September 2020, for a Preventable Accident.

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<sup>44</sup> *Id.* At III, C, 2.

<sup>45</sup> Body Worn Cameras, Special Order S03-14, 11-A.

<sup>46</sup> S03-14. The policy also includes many other actions which could include this incident including investigatory stops, arrests, searches, high risk situations, and encounters that become adversarial.

**ii. Recommended Penalty**

COPA recommends 3-days suspension. Officer Robles Complimentary History demonstrates that normally he is attentive to duties and responsibilities as a sworn member of CPD. However, Officer Robles failed to comply with BWC special order S03-14 as he did not active his BWC during this incident.

**b. Officer Rodriguez**

**i. Complimentary and Disciplinary History**

- 1. Officer Rodriguez has received; a 2019 Crime Reduction Award, three Department Commendations, three Emblem of Recognition- Physical Fitness Awards and eight Honorable Mentions.
- 2. Officer Rodriguez has no disciplinary history.

**ii. Recommended Penalty**

COPA recommends 10-days suspension. Officer Rodriguez’s Complimentary History demonstrates that normally he is attentive to duties and responsibilities as a sworn member of CPD. Officer Rodriguez unlawfully entered [REDACTED] apartment building without justification. Officer Rodriguez admitted he probably said words to the effect of “open the fucking door.” Officer Rodriguez unlawfully caused damage to [REDACTED] apartment door without justification. Officer Rodriguez failed to comply with BWC special order S03-14, as he did not active his BWC during this incident.

**IX. CONCLUSION**

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

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Officer Robles	It is alleged by [REDACTED] that on or about December 5, 2019, at approximately 10:05 am at or near [REDACTED] Chicago, IL 60624. Officer Robles committed misconduct in that he;	
	1. Made an unlawful entry into [REDACTED] apartment building without justification.	Not Sustained
	2. Said words of the effect of “open the fuckin door.”	Not Sustained
	3. Caused damage to [REDACTED] apartment door without justification.	Not Sustained

	<p>4. Used his authority as a Chicago Police Department officer to influence a citizen to enter the apartment building without justification by saying words to the effect of, “Chicago Police, open this door or I’ll shoot through it.”</p> <p>5. Threatened to use deadly force without justification by saying words to the effect of, “Chicago Police, open this door or I’ll shoot through it.”</p> <p>6. Failed to comply with S03-14 by failing to activate his body worn camera.</p>	<p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained</p>
Officer Rodriguez	<p>It is alleged by [REDACTED] that on or about December 5, 2019, at approximately 10:05 am at or near [REDACTED] Chicago, IL 60624. Officer Rodriguez committed misconduct in that he;</p> <p>1. Made an unlawful entry into [REDACTED] apartment building without justification.</p> <p>2. Said words of the effect of “open the fuckin door.”</p> <p>3. Caused damage to [REDACTED] apartment door without justification.</p> <p>4. Used his authority as a Chicago Police Department officer to influence a citizen to enter the apartment building without justification by saying words to the effect of, “Chicago Police, open this door or I’ll shoot through it.”</p> <p>5. Threatened to use deadly force without justification by saying words to the effect of, “Chicago Police, open this door or I’ll shoot through it.”</p> <p>6. Failed to comply with S03-14 by failing to activate his body worn camera.</p>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained</p>

**LEFT BLANK INTENTIONALLY**

**Approved:**



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Angela Hearts-Glass  
*Deputy Chief Investigator*

2-25-2022

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Date