

SUMMARY REPORT OF INVESTIGATION<sup>1</sup>

I. EXECUTIVE SUMMARY

Date of Incident:	April 13, 2017
Time of Incident:	1:26 a.m.
Location of Incident:	3201 N. Nagle Avenue
Date of COPA Notification:	April 13, 2017
Time of COPA Notification:	7:47 a.m.

On April 13, 2017, at approximately 1:26 a.m., Officers Cesar Valdez and Samantha Lacina-Graney observed a Nissan Altima driving without headlights. The officers made a U-turn and followed the Nissan. The car accelerated and the officers activated their emergency equipment to pull over the vehicle. The Nissan stopped and the driver, [REDACTED] exited the car and fled westbound on foot. Officers Valdez and Lacina-Graney also exited their car and gave [REDACTED] verbal commands to stop and get on the ground. [REDACTED] stopped running, turned around, approached the two officers, and then put his hands on the trunk of the Nissan. Officer Valdez grabbed [REDACTED] and forced him to the ground. [REDACTED] was arrested and charged with driving under the influence of alcohol and related offenses.

II. INVOLVED PARTIES

Involved Officer #1:	Cesar Valdez, Star #17353, Employee # [REDACTED], Date of Appointment June 27, 2016, Police Officer, Unit 025, DOB [REDACTED], 1985, Male Hispanic
Involved Officer #2:	Samantha Lacina-Gray, Star# 14260, Employee# [REDACTED] 2, Date of Appointment February 02, 2015, Police Officer, Unit of Assignment 025, DOB [REDACTED], 1989, Female Hispanic
Subject:	[REDACTED] DOB [REDACTED], 1994, Male Hispanic
Witness #1:	[REDACTED] DOB [REDACTED], 1995, Female Hispanic
Witness #2	[REDACTED] DOB [REDACTED], 1998, Male Hispanic

<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

**III. ALLEGATIONS**

Officer	Allegation	Finding
Officer Cesar Valdez	1. Performed a takedown of [REDACTED] without justification.	Sustained

**IV. APPLICABLE RULES AND LAWS**

Rules

1. Rule 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
2. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

General Orders

1. G03-02 Use of Force Guidelines
2. G03-02-02 Force Options

**V. INVESTIGATION<sup>2</sup>**

**a. Interviews**

In his December 8, 2017 statement to COPA,<sup>3</sup> **Accused Officer Cesar Valdez** stated at the time of incident he was patrolling with his partner Officer Samantha Lacina-Graney when they observed a Nissan Altima heading west on Belmont Avenue without headlights. Officer Lacina-Graney executed a U-turn to follow the Nissan. The Nissan then drove down an alley and ultimately got back onto Belmont Avenue. The officers activated their emergency equipment to conduct a traffic stop of the Nissan. The Nissan continued for another block before turning north onto Nagle Avenue. The driver of the Nissan, later identified as [REDACTED] exited the car and fled on foot westbound on Nagle. At the same time, a female passenger, later identified as [REDACTED] opened the front passenger door and partially exited the vehicle. Officer Valdez shouted verbal commands at [REDACTED] to stop and get on the ground, but [REDACTED] did not comply. [REDACTED] continued to run away but eventually stopped. [REDACTED] then turned around and approached both officers while continuing to ignore verbal

<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>3</sup> Attachment 26

commands to stop and get on the ground. Officer Valdez continued to order [REDACTED] to get on the ground, but he failed to comply with Officer Valdez's command. Officer Valdez removed his weapon from his holster and pointed it at [REDACTED] then walked to the Nissan and put his hands on the trunk of the Nissan. Officer Valdez holstered his weapon and grabbed [REDACTED] by the arm. After feeling [REDACTED] tense up, Officer Valdez took him to the ground. Officer Valdez said he wanted to secure [REDACTED] as quickly as possible because the windows of the Nissan were tinted, and he knew there was a front passenger in the vehicle that also needed to be secured to ensure officer safety. Officer Valdez stated [REDACTED] tensed up but also began to pull away at the moment of the take down. When asked why he did not select the "Pulled Away" box for the subject's actions on his Tactical Response Report (TRR), Officer Valdez stated that it was the first TRR he had completed.<sup>4</sup>

In her December 5, 2017 to COPA,<sup>5</sup> **Witness Officer Samantha Lacina-Graney** provided essentially the same account of events as Officer Valdez.

#### b. Digital Evidence

The **in-car camera recording**<sup>6</sup> captured Officer Lacina-Graney and Officer Valdez conducting a traffic stop. The recording showed [REDACTED] exiting the vehicle and running from the officers. Officer Lacina-Graney and Officer Valdez exited the squad car and shouted verbal commands to [REDACTED] to stop and get on the ground. [REDACTED] continued to run but then stopped. Officer Valdez continued to give verbal commands to get on the ground. [REDACTED] then turned around and approached Officer Valdez. Officer Valdez continued to give [REDACTED] verbal commands, which [REDACTED] did not appear to follow. Then, Officer Valdez removed his weapon from his holster and pointed it at [REDACTED] while shouting at him to get on the ground. [REDACTED] approached the Nissan and put his hands on the side of the trunk. Officer Valdez holstered his weapon, grabbed [REDACTED] by one arm and then immediately forced him to the ground. Officer Valdez then shouted, "I said get down on the fucking ground."

#### c. Documentary Evidence

The **initiation report**<sup>7</sup> drafted by Lieutenant Kevin Kendzior #299 noted that Officer Valdez's emergency takedown of [REDACTED] could be excessive force. Lt. Kendzior further noted that [REDACTED] did not wish to speak to Lt. Kendzior, so the incident required additional investigation.

The **related CPD reports**<sup>8</sup> provide essentially the same account of the events as the officers' statements

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<sup>4</sup> Attempts to contact [REDACTED] and [REDACTED] for statements were unsuccessful.

<sup>5</sup> Attachment 25

<sup>6</sup> Attachment 16

<sup>7</sup> Attachment 4

<sup>8</sup> Attachments 5, 6 and 7

## VI. ANALYSIS

COPA recommends a finding of Sustained for **Allegation #1** against Officer Valdez that he performed an emergency takedown of [REDACTED] without justification.<sup>9</sup>

CPD's use of force policy<sup>10</sup> does not permit the level of force used by Officer Valdez against [REDACTED]. A passive resister is defined as, "a person who fails to comply (non-movement) with verbal or other direction."<sup>11</sup> [REDACTED] actions prior to Officer Valdez using an emergency takedown did not rise to the level of an active resister or assailant. At best, he was a passive resister who failed to follow Officer Valdez's command to get on the ground. Moreover, Officer Valdez was unable to articulate and provide COPA with a justified reason for his use of a takedown against [REDACTED]. Although [REDACTED] fled at one point during the incident, he returned and became cooperative by placing his hands on the side of the car. Even if he stiffened, as Officer Valdez stated he did, [REDACTED] would still have only been a passive resister and a takedown would not be an appropriate use of force. Officer Valdez's takedown of [REDACTED] occurred when [REDACTED] was not exhibiting actions consistent with that of an active resister or assailant. It was therefore unreasonable and unnecessary for Officer Valdez to take [REDACTED] to the ground and Allegation 1 should be sustained.

## VII. RECOMMENDED DISCIPLINE FOR SUSTAIN ALLEGATION

### a. Officer Cesar Valdez

#### **Complimentary History:**

One Department Commendation; thirteen Honorable Mentions; one Complimentary Letter; one Life Saving Award; one Joint Operations Award.

#### **Disciplinary History:**

No sustained findings.

### i. Recommended Penalty:

For Allegation 1, COPA recommends a two-day suspension and training on use of force options and de-escalation techniques.

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<sup>9</sup> Relative to a finding of Sustained (*i.e.* where it is determined that the allegation is supported), COPA employs a preponderance of evidence standard. *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).

<sup>10</sup> G03-02-02 (effective January 1, 2016)

<sup>11</sup> G03-02-02-IV-B-1 (effective January 1, 2016)

VIII. CONCLUSION

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

Officer	Allegation	Finding
Officer Cesar Valdez	1. Performed a takedown of [REDACTED] without justification.	Sustained

Approved:

[REDACTED]

\_\_\_\_\_  
Jay Westensee  
Deputy Chief Administrator – Chief Investigator

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Date 11/21/19

Appendix A

Assigned Investigative Staff

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<b>Squad</b>	14
<b>Investigator</b>	Oscar Nufio
<b>Supervising Investigator</b>	Adam Pfeifer
<b>Deputy Chief Administrator:</b>	Jay Westensee