



Log # 2020-1106

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On March 9, 2020, the Civilian Office of Police Accountability (COPA) received a website complaint from ██████████ reporting alleged misconduct by members of the Chicago Police Department (CPD). ██████████ alleged that on March 6, 2020, Officers Jesus Garcia and Jose Carrera stopped him without justification, and Officer Carrera was rude and unprofessional to him by throwing his wallet at him.² Upon review of the evidence, COPA served additional allegations that both Officer Garcia and Carrera failed to timely activate their body worn cameras (BWCs) and they failed to complete an Investigatory Stop Report (ISR). Following its investigation, COPA reached sustained findings regarding the allegations that Officers Garcia and Carrera failed to timely activate their BWCs and failed to complete an ISR, and Officer Carrera being rude and unprofessional.

II. SUMMARY OF EVIDENCE³

On March 6, 2020, at approximately 5:05pm, Officers Carrera and Garcia had an interaction with ██████████ near the address of 2400 S. St. Louis. On the date of the incident, Officers Carrera and Garcia were responding to a foot pursuit call involving a man with a gun.⁴ A call came out over the air giving a brief description of the person they were chasing. The description given was a Hispanic male, wearing a grey hoodie, with short hair, travelling westbound from the 2400 block of Trumbull.⁵ As the officers were driving down 24th Street, they observed an individual matching the description.⁶

The officers stopped their vehicle and Officer Carrera exited the vehicle to speak with ██████████⁷ Officer Garcia remained inside the vehicle to monitor the radio for more information regarding the person with the gun.⁸ Officer Carrera asked ██████████ for his

¹ 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.

² One or more of these allegations fall within COPA's jurisdiction pursuant to Chicago Municipal Code § 2-78-120. Therefore, COPA determined it would be the primary investigative agency in this matter.

³ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including civilian interviews and officer interviews.

⁴ Att. 21, pg. 9 lines 5 – 7 and Att. 23, pg. 10 lines 16 - 17.

⁵ Att. 21, pg. 9 lines 8 – 13.

⁶ Att. 21, pg. 9 lines 13 – 16 and Att. 23, pg. 10 lines 18 – 20.

⁷ Att. 21, pg. 9 lines 17 – 21 and Att. 5, pg. 14 lines 5 – 9.

⁸ Att. 23, pg. 11 lines 4 – 10.

license and informed him that they were looking for someone matching his description; ██████ ██████ asked Officer Carrera why he was harassing him, but subsequently provided his identification to Officer Carrera.⁹ After briefly examining the identification, Officer Carrera tossed the wallet containing the identification back inside ██████ vehicle and Officer Carrera walked away.¹⁰ Both officers Carrera and Garcia denied stopping ██████ without justification, but both officers admitted to failing to timely activate their body worn cameras and failing to complete an ISR. Officer Carrera also admitted to tossing ██████ wallet at him during the stop.

III. ALLEGATIONS

Officer Jose Carrera:

1. Stopped ██████ without justification.
 - Not Sustained
2. Were rude and unprofessional in that he threw ██████ wallet.
 - Sustained, Violations of Rules 2 and 8.
3. Failed to timely activate his body worn camera in violation of S03-14.
 - Sustained, Violations of Rule 6.
4. Failed to complete an investigatory stop report.
 - Sustained, Violations of Rule 6.

Officer Jesus Garcia:

1. Stopped ██████ without justification.
 - Not Sustained
2. Failed to timely activate his body worn camera in violation of S03-14.
 - Sustained, Violation of Rule 6.
3. Failed to complete an investigatory stop report.
 - Sustained, Violations of Rule 6.

IV. CREDIBILITY ASSESSMENT

This investigation did not reveal any evidence that caused COPA to doubt the credibility of any of the individuals who provided statements.

V. ANALYSIS¹¹

COPA finds Allegation #1 against Officers Carrera and Garcia, that they stopped ██████ without justification, **Not Sustained**. A police officer may temporarily detain an individual for an investigatory stop when the officer's decision is based on specific, articulable facts which

⁹ Att. 8 at 00:08 to 00:53.

¹⁰ Att. 8 at 00:53 to 01:35 and Att. 21, pg. 11 lines 2 - 7.

¹¹ For a definition of COPA's findings and standards of proof, *see* Appendix B.

warrant the investigative stop intrusion.¹² In this case, ██████████ claimed that the officers had no reason to stop him. However, Officers Carrera and Garcia stated they stopped ██████████ because they were investigating a man with a gun call, and he matched the initial description given. ██████████ was subsequently released when Officer Carrera determined that he was not the person that they were looking for. COPA has no video of the incident and has no reason to question the credibility of either party and as such COPA finds this allegation not sustained.

COPA finds Allegation #2 against Officer Carrera, in that he was rude and unprofessional when he threw ██████████ wallet, **Sustained**. Officer Carrera admitted during his statement to COPA that he tossed the wallet back to ██████████ because his hands were moving everywhere, and he was aggressive and yelling. As such, COPA finds this allegation Sustained and Officer Carrera's actions violated Department rules 2 and 8.

COPA finds Allegation #2 against Officer Garcia and Allegation #3 against Officer Carrera, in that they failed to timely activate their BWC, **Sustained**. Special Order S03-14 requires the department member to activate the system to event mode at the beginning of an incident and record the entire incident for all law enforcement related activities. Both Officers Garcia and Carrera admitted that they were wearing a body worn camera on the date of the incident and that it was not activated. Officer Carrera stated that he forgot to activate his body worn camera when he exited the vehicle. Officer Garcia stated that he did not get out of the vehicle, and he never had any interactions with ██████████. However, COPA finds that both Officer Garcia and Officer Carrera stopped ██████████ and just because Officer Garcia did not directly interact with ██████████ he was still present and should have had his body worn camera activated. As such, COPA finds this allegation sustained against both officers and their actions violated Department rule 6.

COPA finds Allegation #3 against Officer Garcia, and Allegation #4 against Officer Carrera, in that they failed to complete an ISR, **Sustained**. Special Order S04-13-09 requires sworn members who conduct an investigatory stop to complete an investigatory stop report. Both Officers Garcia and Carrera admitted that they forgot to complete the ISR and as such this allegation is sustained. Both officers' actions violated Department rule 5.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Jose Carrera

i. Complimentary and Disciplinary History¹³

Officer Carrera has received 140 various awards, a Sustained case in 2019 for Operation/Personnel Violation, and a Spar in 2022 for Indebtedness to the City.

¹² *People v. Moore*, 286 Ill. App. 3d 649, 653 (3d Dist. 1997) (citing *Terry v. Ohio*, 392 U.S. 1, 21, (1968)); *People v. Stewart*, 242 Ill. App. 3d 599, 605 (1993)).

¹³ Att. 26.

ii. Recommended Discipline

COPA found that Officer Carrera violated Rules 2, 6, and 8 when he failed to timely activate his BWC, failed to complete an ISR, and was rude and unprofessional to [REDACTED]. For these reasons, combined with the officer's complimentary history and disciplinary history, COPA recommends a **3-5 day(s) suspension**.

b. Officer Jesus Garcia

i. Complimentary and Disciplinary History¹⁴

Officer Garcia has received 94 various awards.

ii. Recommended Discipline

COPA found that Officer Garcia violated Rules 2, and 6 when he failed to timely activate his BWC and to complete an ISR. For these reasons, COPA recommends a **1 day(s) suspension**.

Approved:

[REDACTED]

Angela Hearts-Glass
Deputy Chief Administrator – Chief Investigator

May 31, 2023

Date

¹⁴ Att. 25.

Appendix ACase Details

Date/Time/Location of Incident:	March 6, 2020/ 5:05 pm/ 2400 S. St. Louis Avenue
Date/Time of COPA Notification:	March 9, 2020/ 11:51 am
Involved Member #1:	Jose Carrera, star #12997, employee # [REDACTED] Date of Appointment: November 30, 2012, 010/376, Male, White Hispanic
Involved Member #2:	Jesus Garcia, star #11044, employee # [REDACTED] Date of Appointment: August 31, 2015, 010/124, Male, White Hispanic
Involved Individual #1:	[REDACTED] Male, Hispanic

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

- S03-14: Body Worn Cameras (April 30, 2018 to present)
- S04-13-09: Investigatory Stop System (July 10, 2017 to present)

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 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.¹⁵ 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.”¹⁶

¹⁵ 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).

¹⁶ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

Appendix C

Transparency and Publication Categories

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