



Log # 2020-0001353

## FINAL SUMMARY REPORT

### I. EXECUTIVE SUMMARY

On March 24, 2020, the Civilian Office of Police Accountability (COPA) received a notification from the Bureau of Internal Affairs reporting alleged sexual misconduct by a member of the Chicago Police Department (CPD). ██████████ (██████████) alleged that on March 15, 2020, PPO Josue Rodriguez (PPO Rodriguez) sexually assaulted her by way of digital and penile penetration to her vagina at her Oak Lawn residence.<sup>1</sup> Upon review of the evidence, COPA served additional allegations that PPO Rodriguez committed the act of oral copulation on ██████████ used his hands to fondle ██████████ breast, removed and/or rearranged clothing from ██████████ body, pulled ██████████ by the legs to re-position her body on a bed all without consent, made various unwanted sexual advances, and was intoxicated off duty. Following its investigation, COPA reached sustained findings regarding the allegations of penile and digital penetration, committing the act of oral copulation on ██████████ using his hands to fondle ██████████ breast, removing and/or rearranging clothing from ██████████ body, and pulling ██████████ by the legs to re-position her body on a bed without consent.

### II. SUMMARY OF EVIDENCE<sup>2</sup>

On March 15, 2020, at approximately 9:40 a.m. ██████████ arrived at the University of Chicago Hospital located at 5656 S. Maryland, Chicago, IL. At that time, she reported to staff that she was intoxicated, sexually assaulted by ██████████ and believed there was vaginal penetration.<sup>3</sup> Upon notice, hospital staff contacted CPD. Responding officers interviewed hospital staff.

The following day, March 16, 2020, ██████████ went to the Oak Lawn Police Department (OLPD)<sup>4</sup> accompanied by her mom and outcry witness, ██████████ (██████████). She was visibly upset and did not want to identify the alleged offender. ██████████ explained, ██████████ was hesitant to report the incident because the offender was a ██████████ and ██████████ did not want to be responsible for destroying ██████████ by reporting what happened. However, ██████████ later identified the offender as her ██████████ (██████████) ██████████ PPO Rodriguez.

██████████ reported to Oak Lawn Detective Gollogly that on March 14, 2020, she was at a ██████████ event with PPO Rodriguez and ██████████. While at the event, she consumed

<sup>1</sup> 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.

<sup>2</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 but not limited to; recorded statements, third party electronic correspondences, police reports, hospital records.

<sup>3</sup> Att. 23 at 4

<sup>4</sup> Att. 6-7 (Video), 8 (Transcript)

approximately four to five mixed alcoholic beverages. After leaving a [REDACTED] event, she and [REDACTED] returned to her residence in Oak Lawn, IL and prepared for bed. Later, [REDACTED] PPO Rodriguez, and [REDACTED] arrived at her residence. Upon their arrival, [REDACTED] retreated to [REDACTED] bedroom while the adults sat in the living area watching television. [REDACTED] reported that she fell asleep on the couch and the next thing she remembered was waking up in her bedroom. She further reported that she recalled her body being repositioned from a vertical sleep position to a horizontal position with her feet hanging off the side of the bed. PPO Rodriguez was kneeling on the side of the bed while groping her breast(s) with his head lying near her chest/stomach area. He then inserted his fingers into her vagina and then licked her vagina. Next, he inserted his penis into her vagina and penetrated her. She explained, during the assault she “froze.”<sup>5</sup> The last thing she recalled was PPO Rodriguez pulling up his pants. She did not recall seeing [REDACTED] in the room, but at some point, she heard [REDACTED] tell PPO Rodriguez that [REDACTED] was looking for her.<sup>6</sup> She later remembered [REDACTED] kneeling on the floor next to the bed. Subsequently, the couple left the residence.

A few hours later, [REDACTED] woke up in state of confusion and felt a sticky substance on her inner leg/thigh area. This prompted her to reach out to several individuals including [REDACTED] [REDACTED] reported [REDACTED] called her on March 15, 2020, at approximately 8:30 a.m., crying and sounding like she could not breath.<sup>7</sup> [REDACTED] told her that she thought Josh did something to her and that she did not feel right. Shortly after receiving that call, [REDACTED] met [REDACTED] at her residence. [REDACTED] told [REDACTED] that she found stickiness on her leg that was not urine, and [REDACTED] urged her to go to the hospital. [REDACTED] eventually agreed to go to the hospital, and [REDACTED] accompanied her to the University of Chicago Hospital Emergency Room.<sup>8</sup>

[REDACTED] also told [REDACTED], [REDACTED] ( [REDACTED] ) about the incident. On March 16, 2020, [REDACTED] met with PPO Rodriguez at a gas station and confronted him about the incident. [REDACTED] related that PPO Rodriguez’s responses to his inquiries changed during their conversation. Initially, he related to [REDACTED] that he and [REDACTED] were engaged in activity and [REDACTED] was present. He later said words to the effect of, “Me and [REDACTED] got together. It was just me and [REDACTED]. It was [REDACTED]”<sup>9</sup> [REDACTED] further claimed that PPO Rodriguez stuttered and avoided eye contact, causing [REDACTED] to believe he was not being truthful. Lastly, [REDACTED] confirmed that [REDACTED] previously mentioned that PPO Rodriguez made her uncomfortable with his comments and displays of affection.<sup>10</sup>

<sup>5</sup> Att. 3 at 4.

<sup>6</sup> [REDACTED] was interviewed in a Forensic Interview (FI). COPA attempted to view the FI but was not granted permission. According to the Oak Lawn Police Department reports, [REDACTED] ( [REDACTED] ) related that PPO Rodriguez and [REDACTED] were at his home the night of the incident, and he observed them asleep on the couch. [REDACTED] was asleep in her bedroom. The reports do not reflect him hearing or seeing the incident.

<sup>7</sup> Att. 3 at 4.

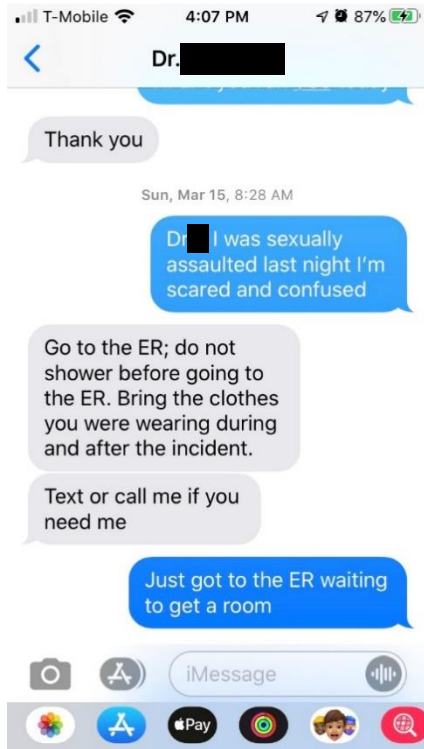
<sup>8</sup> COPA made several attempts to obtain the full investigative file from Oak Lawn Police Department, including all interviews conducted by OLPD. COPA initially received a copy of [REDACTED] interview, but OLPD declined to provide COPA with any other interviews or documentary evidence (other than a redacted final report). COPA also requested assistance in obtaining the reports from CPD’s Bureau of Internal Affairs. However, OLPD denied their requests as well. COPA made attempts both before criminal charges were denied and after with no success. COPA and BIA’s efforts spanned several months and were ultimately unsuccessful.

<sup>9</sup> Att. 35

<sup>10</sup> [REDACTED] related similar information to the Oak Lawn Police department. Att. 22 at 9.

██████████ also reached out to therapist, Dr. ██████████ and her ██████████ (██████████) the morning after the incident.<sup>11</sup> Below are screenshots of those conversations.

Dr. ██████████<sup>12</sup>



<sup>11</sup> Note: ██████████ was already under the care of a mental health professional for unrelated and pre-existing matters.

<sup>12</sup> Att. 15

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Additional police records revealed [redacted] conducted numerous internet searches<sup>14</sup> on March 15<sup>th</sup> and 16<sup>th</sup>, 2020, including: “How to tell a family member you were raped;” “Memory loss and rape;” “Sexual assault vs. Rape;” “I think I was raped;” “Good guys rapes girl;” and “Sexual assault by Chicago police officer.”<sup>15</sup> The records further show that [redacted] was in contact with someone from [redacted]<sup>16</sup> on March 15, 2020, during which [redacted] related, “I will need support on how to move forward from this, I can’t process this and I’m so hurt and confused. I don’t know what to do or where to start.”<sup>17</sup>

[redacted] provided COPA with a screenshot showing missed text messages from her [redacted] at approximately 1:56 AM on March 15, 2020. The screen shots reveal he was looking for her and texted her six times.<sup>18</sup>

Upon arrival to the hospital on March 15, 2020, at 9:40 am, [redacted] reported she was sexually assaulted while inebriated. While there, an Illinois State Police Sexual Assault Evidence Collection Kit was prepared, and her clothing items were inventoried.<sup>19</sup> Records also note that a

<sup>13</sup> Att. 17,18

<sup>14</sup> These search results were obtained from a Cellebrite cell phone extraction conducted by Oak Lawn Police Department.

<sup>15</sup> Att. 22 at 12-13

<sup>16</sup> [redacted]

<sup>17</sup> Att. 22 at 12.

<sup>18</sup> Att. 19.

<sup>19</sup> Att. 23

sexual assault nurse exam was performed on ██████████ at the hospital. A DNA profile was obtained, and the sperm fraction sample collected was consistent with a mixture of three or more individuals including ██████████ and at least one male contributor.<sup>20</sup>

During a follow-up statement with COPA on September 16, 2020, ██████████ essentially reiterated the same account as described to Oak Lawn Police Department. COPA found no significant deviations or variances regarding the alleged assault. However, she reported that prior to her leaving her residence for the banquet, she had taken a new medication and while at the banquet, she drank approximately four to five alcoholic beverages. In fact, she described herself drunk, dizzy, and nauseated while sitting on the couch with ██████████ and PPO Rodriguez and had fallen asleep before they arrived.<sup>22</sup>

██████████ also shared PPO Rodriguez made a few unwanted sexual advances towards her that night at the banquet. She further explained, he whispered words to the effect of “damn you look fine.”<sup>23</sup> At one point during the party, she recalled pushing him away from her because he had invaded her personal space. Later, he looked her up and down<sup>24</sup> from a distance, making her feel uncomfortable. She further described prior instances where PPO Rodriguez made sexual advances that made her uncomfortable. For instance, he sometimes referred to her as “babe”<sup>25</sup> and complimented her appearance. There were also times, he placed his hand/arm around her waist and/or gave her extended hugs where they would remain in a hugging position longer than necessary. On one occasion during late 2019, she was so uncomfortable that she told ██████████ about it. However, ██████████ dismissed her concerns stating words to the effect of, “That’s how he is.”<sup>26</sup> ██████████ further relayed that it was typical of PPO Rodriguez to become overly “touchy” with her when he was intoxicated.<sup>27</sup>

She further relayed that she and ██████████ did not have sexual discussions and never discussed her being included in any sex acts with her and PPO Rodriguez.<sup>28</sup> As she reported to the Oak Lawn Police Department, she did not consent to any of the reported sex acts.

PPO Rodriguez<sup>29</sup> reported to COPA that he and ██████████ had a good relationship over the years, divulging no incidents between the two. However, he relayed she made numerous sexual advances toward him both verbally and physically. In one instance, while riding in a car with her and ██████████ proceeded to suck his fingers from the back seat as he placed his hand on the top of the passenger seat. Upon arrival to their her residence and walking her inside, ██████████ grabbed at his crotch area, unzipped his pants, and removed his penis from his undergarments. Subsequently, no further action took place, as he created distance between them, left her residence, and returned to his vehicle where ██████████ remained. Once he returned to the

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<sup>20</sup> Att. 3, 22 (OLPD Case Report 20-01320) at 16.

<sup>21</sup> Att. 13 (Audio), 14 (Transcript)

<sup>22</sup> Att. 14 @ pg. 36-39

<sup>23</sup> Att. 14 at 9.

<sup>24</sup> Note: ██████████ felt as if PPO Rodriguez was being flirtatious.

<sup>25</sup> Att. 14 at 9.

<sup>26</sup> Att. 14 at 8.

<sup>27</sup> Att. 14 @ pg. 6-11

<sup>28</sup> Id. @ pg. 18

<sup>29</sup> Att. 24 (Audio), 25 (Transcript)

vehicle, he made no mention of it. During another incident, [REDACTED] touched and/or grabbed his inner groin area. However, no further action took place.

PPO Rodriguez explained, on March 14, 2020, he, and [REDACTED] attended a [REDACTED] event where [REDACTED] was present. He relayed he, [REDACTED] and [REDACTED] were drinking alcoholic beverages at the event but could not offer a definitive number. He asserted that none of them were impaired or intoxicated. However, when asked about his experience and/or observation of [REDACTED] when she is impaired, he explained that she becomes more outgoing, talkative and laughs. Subsequently, he also explained she was exhibiting this behavior that night at the banquet.<sup>30</sup>

After some time, they left the event and retreated to [REDACTED] residence. When they arrived, the group consumed a shot of alcohol and proceeded to watch television on the couch. He was seated in between [REDACTED] and [REDACTED]. At some point, he and [REDACTED] began to kiss, as [REDACTED] simultaneously grabbed his hand, placed it around her shoulder and onto her breast. She then suggested they go to the bedroom. When asked if there were any previous discussions about sex amongst the group leading up to these events, he confirmed there were not. He further stated, he and [REDACTED] never discussed participating in any non-traditional sexual activities and that this was a first-time experience for them both. In fact, on the date of interview, he relayed he and [REDACTED] still had never discussed what happen that night.

After [REDACTED] suggested they go the bedroom, he and [REDACTED] followed her into her bedroom and she locked door. He noted, [REDACTED] mattress was directly on the floor without a box spring or bedframe. Upon entry, [REDACTED] immediately sat/laid on the floor next to the bed, while [REDACTED] laid on the bed. According to him, [REDACTED] remained in this position the entire time. He and his [REDACTED] proceeded to have sex and the next thing he noticed was that [REDACTED] grabbed his hand to rub her body from the vaginal area up to her breast over her clothing items. After having sex with his [REDACTED] he turned to [REDACTED]. At that time, [REDACTED] used one of her hands to stroke and grab his penis and the other to reposition her shorts to insert his penis into her vagina. While still positioned with his knees on the floor and [REDACTED] on the bed, he proceeded to penetrate her vagina. Although she was non-verbal, [REDACTED] appeared engaged in that she wrapped her legs around his body and made lower body thrust toward him. He did not ejaculate inside her. PPO Rodriguez asserted his belief that the encounter was consensual because [REDACTED] gave him no verbal or non-verbal cues to indicate otherwise.<sup>31</sup> Subsequently, after the encounter [REDACTED] appeared fine and escorted, he and [REDACTED] to the front door. This was his last interaction with [REDACTED]. Finally, he denied all allegations.

[REDACTED] [REDACTED] also provided a statement to COPA and essentially related the same version of events as her [REDACTED] PPO Rodriguez. However, she relayed alcohol could have played a factor in everyone's actions that night. During discussions surrounding the text message exchange between her and [REDACTED] following the incident, she expressed that she sent the messages because she just wanted to remain in a good place with [REDACTED] after this encounter

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<sup>30</sup> Att. 25 @ pg. 39-40

<sup>31</sup> Att. 25 @ pg. 28-62

<sup>32</sup> Att. 20 (Audio), 21 (Transcript)

and did not want things to become awkward between the group. In fact, she and PPO Rodriguez returned to [REDACTED] residence later that afternoon after not being able to reach her by phone to assure she was ok, but they were unsuccessful reaching her. She confirmed that immediately after the incident, she noticed [REDACTED] ceased all channels of communication with her even blocking her on all social media platforms. Although she thought it was an odd reaction, she decided to “let her be.”<sup>33</sup> At the time of her interview, she and [REDACTED] had still not spoken.<sup>34</sup>

### III. ALLEGATIONS

#### Probationary Police Officer (PPO) Josue Rodriguez:

1. Forcibly penetrated [REDACTED] by inserting his penis into her vagina without her consent.
  - Sustained, Violations of Rules 2 and 8
2. Digitally penetrated [REDACTED] by inserting his finger(s) into her vagina without her consent.
  - Sustained, Violations of Rules 2 and 8
3. Committed the act of oral copulation on [REDACTED] without her consent.
  - Sustained, Violations of Rules 2 and 8
4. Used his hands to fondle [REDACTED] breast(s) without her consent.
  - Sustained, Violations of Rules 2 and 8
5. Removed and/or rearranged clothing item(s) from [REDACTED] body without her consent.
  - Sustained, Violations of Rules 2 and 8
6. Pulled [REDACTED] by the legs to re-position her by the legs to re-position her body on a bed without her consent.
  - Sustained, Violations of Rules 2 and 8
7. From 2019-2020 at various unknown locations the accused made unwanted verbal sexual advances towards [REDACTED]
  - Not Sustained
8. Was intoxicated while off duty.
  - Not Sustained

### IV. CREDIBILITY ASSESSMENT

The credibility of an individual relies primarily on two factors: 1) the individual’s truthfulness and 2) the reliability of the individual’s account. The first factor addresses the honesty

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<sup>33</sup> Att. 21 at pg. 42

<sup>34</sup> Att. 21 @ pg. 38-42

of the individual making the statement, while the second factor speaks to the individual's ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory. While some facts are consistent among the accounts of [REDACTED] and PPO Rodriguez, other material facts are entirely divergent. [REDACTED] reported that PPO Rodriguez vaginally and digitally penetrated her without her consent. PPO and [REDACTED] both confirmed that he engaged in sex acts with [REDACTED] but asserted that it was consensual. After considering the evidence, COPA finds [REDACTED] more credible.

**i. [REDACTED] Account**

A preponderance of the evidence demonstrates that [REDACTED] account of the incident is credible.

First, [REDACTED] account remained consistent and was corroborated, in part, by other witnesses. [REDACTED] made numerous statements reporting this incident: a recorded statement to Oak Lawn Police Detective Gollogly on the day of incident, a recorded statement to COPA, outcry statements to [REDACTED] Dr. [REDACTED] and University of Chicago hospital staff. Those statements are consistent within themselves and amongst each other. Specifically, [REDACTED] consistently reported that PPO Rodriguez sexually assaulted her by penile and digital penetration of her vagina without her consent. [REDACTED] never diverted from her original reporting and did not appear to add any more than what she could recall.

Second, [REDACTED] emotional disposition and immediate outcry support her credibility. [REDACTED] immediately outcried to several witnesses and reported the incident to police despite her reported fear of retaliation from PPO Rodriguez and the likelihood of damaging [REDACTED] going forward. Furthermore, [REDACTED] attested to [REDACTED] state of being following the incident, reporting that [REDACTED] was crying and had trouble breathing when she called her on the phone that morning.

Lastly, evidence collected by the Oak Lawn Police Department revealed [REDACTED] web history of her cell phone and outreach to [REDACTED] which reasonably embodies the behavior of someone who was recently assaulted. Other evidence also established [REDACTED] timeline of events/actions occurring from the time she woke up from the incident until she was admitted to the hospital and made her report to the authorities. Furthermore, the text messages sent to her by [REDACTED] the night of the incident and exchanged between her, [REDACTED] and Dr. [REDACTED] all support [REDACTED] account of the incident.

Overall, there is no apparent motive for [REDACTED] to fabricate these allegations. Moreover, despite concerns about reporting a sexual assault against a "[REDACTED]" would have a direct impact on her relationship with [REDACTED] and other [REDACTED], she still reported the incident.

Therefore, COPA finds [REDACTED] account of this incident to be credible.



## ii. PPO Rodriguez's Account

COPA does not find PPO Rodriguez's account of the incident to be credible. PPO Rodriguez, as the accused, and ██████████ as his ██████████ have a motive to portray these events in a manner that does not place blame or culpability on him. Overall, PPO Rodriguez's account lacks a degree of credibility.

PPO Rodriguez stated ██████████ initiated physical contact with him by placing his hand on her and guiding him and ██████████ to her bedroom.<sup>35</sup> In fact, he reported that ██████████ controlled and led the entire sequence of events even using her hand to insert his penis into her vagina. ██████████ gave a similar account also describing ██████████ as the initiator. Throughout his interview with COPA, PPO Rodriguez continuously depicted ██████████ as an aggressive and assertive person.

On the other hand, he explained that ██████████ remained in a horizontal position (on her back) across the bed with her feet rested on the floor, fully clothed, and to his recollection silent throughout the entire incident. ██████████ also did not recall ██████████ making any sounds during the sex acts.<sup>36</sup> Their statements corroborated ██████████ who described herself as unengaged and related that she "froze."<sup>37</sup> Considering all factors and information received, COPA finds that PPO Rodriguez's version, that she initially was the aggressor but was later a passive participant, lacks a degree of credibility. His credibility was further diminished by his claim that he and ██████████ had no subsequent conversations about this activity, despite this being a spontaneous and first-time event for them both that led to criminal and administrative investigations.

PPO Rodriguez provided no apparent motive for her to fabricate her account and his account does not ring true in light of ██████████ subsequent actions of submitting to a sexual assault exam, her internet searches, demeanor, and reporting to the police. Furthermore, ██████████ related that PPO Rodriguez's account was inconsistent following the incident.

Thus, as explained above, COPA finds ██████████ credible and that her account of the events is consistent with that of an assault victim. ██████████ claims are supported by the police department, medical personnel, and witnesses. She further, provided logical, consistent, and plausible accounts of the incident.

## V. ANALYSIS<sup>38</sup>

COPA finds that Allegations #1-6 against PPO Rodriguez that on or about March 15, 2020 at approximately 1: 00 a.m. at the locations of ██████████ ██████████ he 1) forcibly penetrated ██████████ vagina with his penis without consent, 2) digitally penetrated ██████████ vagina without consent, 3) committed the act of oral copulation on ██████████ ██████████ without consent, 4) used his hands to fondle ██████████ breast without her consent, 5) removed and/or rearranged clothing from ██████████ body without consent,

<sup>35</sup> Id. @ pg. 28-31, 49-51

<sup>36</sup> Id. @ pg. 62-64

<sup>37</sup> Att. 14 @ pg. 43

<sup>38</sup> For a definition of COPA's findings and standards of proof, see Appendix B.

and 6) pulled ██████████ by the legs to re-position her body on a bed without consent are **SUSTAINED**.

Here, the issue is one of consent. While PPO Rodriguez and ██████████ alleged that the incident was consensual, ██████████ denied providing consent and claimed she was not coherent. ██████████ asserted that she had several alcoholic beverages and took a new medication. She further claimed that she did not recall getting to the bedroom but became alert during the assault. While neither PPO Rodriguez nor ██████████ confirmed that ██████████ was too intoxicated or not coherent enough to provide consent, they both indicated that alcohol may have been a factor. PPO Rodriguez described ██████████ demeanor when she is intoxicated and described similar behavior on the night of the incident. ██████████ stated alcohol may have been a factor in their decisions that evening.

Furthermore, ██████████ asserted that she froze during the incident, which is a response that may occur during a traumatic event. Although PPO Rodriguez and ██████████ claimed that ██████████ was the aggressor initially, they both corroborated behavior akin to a freeze response in that they did not hear ██████████ make any sounds during the sexual encounter. Based on a preponderance of the evidence, COPA finds that ██████████ was unable to provide consent and that her physical reaction demonstrated a lack of consent. Thus, the encounter was nonconsensual.

As previously discussed, COPA finds ██████████ account more credible than PPO Rodriguez. Her account was consistent throughout multiple statements to the Oak Lawn Police department and COPA. ██████████ outcry immediately to her therapist, friend(s)/family, and hospital staff, and reported the incident to police, despite fear of retaliation. Moreover, text messages from ██████████ during the incident and her search history following the incident corroborate ██████████ version of events. Therefore, based on a preponderance of the evidence, COPA finds it is more likely than not, Allegations 1-6 are Sustained.

COPA finds that **Allegation #7** against PPO Josue Rodriguez alleging that he made unwanted sexual advances toward ██████████ is **Not Sustained**. Although COPA finds ██████████ credible, COPA does not find sufficient evidence to support a finding of sustained. ██████████ was unable to recall specific details that might allow her account to be corroborated through outcry witnesses or other evidence. Due to the lack of sufficient evidence to verify or invalidate the allegations, this allegation is Not Sustained.

Lastly, COPA finds that **Allegation #8** against PPO Josue Rodriguez, that he was intoxicated while off duty is **Not Sustained**. Again, COPA found no evidence in the form of a breathalyzer test, third party observations, or personal admissions to suggest that he was intoxicated at the time of incident. Although PPO Rodriguez admitted having consumed alcoholic beverages that day, he denied the allegation. Furthermore, neither ██████████ nor ██████████ stated they observed obvious signs of intoxication or recalled how many alcoholic beverages he consumed throughout the night. Thus, there is insufficient evidence to prove or disprove the allegation and it is Not Sustained.

**VI. DISCIPLINARY RECOMMENDATION**

**a. PPO Josue Rodriguez**

**i. Complimentary and Disciplinary History<sup>39</sup>**

PPO Rodriguez has 2 awards and recognitions. He has no disciplinary history.

**ii. Recommended Discipline**

Sexual misconduct is a serious violation of Department policy. Here, Officer Rodriguez committed acts of nonconsensual sexual conduct with [REDACTED] Not only was he a trusted [REDACTED] but also, he is a member of the Chicago Police Department. This conduct seriously undermines public faith, credibility, and trust in the Department. He took advantage of [REDACTED] vulnerable state and violated her. His conduct violated Rules 2 and 8 and he took no accountability for his actions. Thus, COPA recommends he be separated from the Department.

Approved:

[REDACTED]

*Sharday Jackson*  
*Deputy Chief Administrator – Chief Investigator*

May 25, 2023  
Date

[REDACTED]

*Andrea Kersten*  
*Chief Administrator*

May 25, 2023  
Date

<sup>39</sup> Attachment 37.

Appendix ACase Details

Date/Time/Location of Incident:	March 15, 2020, at approximately 1:00 a.m.
Date/Time of COPA Notification:	March 23, 2020, at 2:00 p.m.
Involved Officer #1:	Josue Rodriguez, Star # 18054, Employee ID# [REDACTED], Date of Appointment: February 19, 2019, Unit of Assignment: 044, Gender: Male/Hispanic
Involved Individual #1:	[REDACTED] Female/ 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

- N/A

## 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.<sup>40</sup> For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense. 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>41</sup>

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<sup>40</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>41</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 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