



Log # 2021-1309

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

### I. EXECUTIVE SUMMARY

On April 7, 2021, 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 April 7, 2021, Officers Axel Gallardo and Yesenia Rojas (collectively “the officers”) improperly stopped and detained him, then searched his person and vehicle without justification.<sup>2</sup> Additionally, ██████████ alleged that the officers issued him a traffic citation only after he requested documentation of the interaction, failed to provide him an Investigatory Stop Receipt, and failed to complete an Investigatory Stop Report (ISR). Further, ██████████ alleged that Officer Gallardo handcuffed him too tightly and that Officer Rojas moved the handcuffs in a manner that caused him discomfort. Upon review of the evidence, COPA served additional allegations that the officers failed to properly operate their body worn cameras (BWCs), failed to properly document the traffic stop, and failed to properly file the issued traffic citation. Additionally, COPA served allegations against Officer Rojas for engaging ██████████ in an unnecessary verbal altercation and referring to ██████████ as “you fucking faggot ass bitch” and “you fucking retard.” COPA also served allegations against Officer Gallardo for failing to report Officer Rojas’ verbal abuse and derogatory comments.

Following its investigation, COPA reached sustained findings regarding the allegations that the officers failed to properly document the traffic stop, failed to complete an ISR, failed to issue ██████████ an Investigatory Stop Receipt, failed to properly operate their BWCs, and issued ██████████ a traffic citation in response to his request for documentation of the interaction. Additionally, COPA reached sustained findings regarding the allegations of Officer Rojas’ verbal altercation with ██████████ and her use of derogatory statements in reference to ██████████ as well as Officer Gallardo’s failure to report Officer Rojas’ verbal abuse.

### II. SUMMARY OF EVIDENCE<sup>3</sup>

On April 7, 2021, Officers Gallardo and Rojas were on patrol when they observed ██████████ operating a vehicle with an invalid City of Chicago sticker. The officers stopped ██████████ and approached his vehicle. Once the officers were next to ██████████ stopped vehicle, they detected the

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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> 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>3</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 BWC footage and civilian and CPD member interviews.

odor of cannabis.<sup>4</sup> Additionally, Officer Gallardo observed a green leafy substance, consistent with cannabis, in the rear of [REDACTED] vehicle.<sup>5</sup> After making these observations, Officer Gallardo requested that [REDACTED] exit the vehicle.<sup>6</sup> [REDACTED] eventually exited the vehicle and was detained in handcuffs by Officer Gallardo.<sup>7</sup> Officer Rojas escorted [REDACTED] to the rear of his vehicle, while Officer Gallardo searched the vehicle. During the search, Officer Gallardo located and recovered a small amount of suspected cannabis from the rear passenger compartment.<sup>8</sup> Officer Gallardo then returned to the CPD vehicle and completed a name check of [REDACTED].<sup>9</sup> As this occurred, Officer Rojas remained with [REDACTED] at the rear of his vehicle. While standing with [REDACTED] Officer Rojas and [REDACTED] argued back and forth about [REDACTED] detention, as well as the officers' BWCs being activated. During this argument, Officer Rojas remarked about [REDACTED] "stupid ass comments,"<sup>10</sup> encouraged [REDACTED] to file a complaint, and commented on [REDACTED] having "little ass hands."<sup>11</sup>

Once the name check was complete, Officer Gallardo walked back to [REDACTED] and Officer Rojas, returned [REDACTED] driver's license and other documentation, and Officer Rojas released [REDACTED] from the handcuffs.<sup>12</sup> As this occurred, [REDACTED] requested that the officers provide him with an "investigation receipt,"<sup>13</sup> to which Officer Gallardo responded with words to the effect of, "You want one... alright, stay right there, I'll get it to you."<sup>14</sup> The officers then returned to the CPD vehicle, where BWC captured Officer Rojas say words to the effect of, "Fuck that guy ... oh you wanna write him a ticket?"<sup>15</sup> Officer Gallardo responded by grabbing the citation book, stating "yeah, it's our probable cause," and proceeding to complete a citation.<sup>16</sup> While Officer Gallardo was completing the citation, [REDACTED] approached the CPD vehicle and again requested a receipt, to which Officer Gallardo instructed him to return to his vehicle.<sup>17</sup> [REDACTED] did not return to his vehicle and instead remained on the street. Officer Rojas then yelled at [REDACTED] "Get in your car, you faggot ass bitch, get in your car, get in your car, you fucking retard."<sup>18</sup> Officer Gallardo did not

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<sup>4</sup> Att. 30, pg. 7, lns. 5 to 10; Att. 31, pg. 8, lns. 10 and 11.

<sup>5</sup> Att. 6 at 02:57; Att. 30, pg. 6, lns. 18 to 24, pg. 7, lns. 1 to 4.

<sup>6</sup> Att. 6 at 02:59.

<sup>7</sup> Att. 6 at 03:14.

<sup>8</sup> Att. 6 at 04:41.

<sup>9</sup> During this name check, Officer Gallardo retrieved his citation book and opened the book to a blank citation; however, he did not write anything down and instead placed the citation book in the passenger seat before exiting the vehicle. Att. 6 from 05:23 to 06:34.

<sup>10</sup> Att. 7 at 02:07.

<sup>11</sup> Att. 7 at 04:30.

<sup>12</sup> Att. 6 from 06:50 to 07:16; Att. 7 from 04:17 to 04:20.

<sup>13</sup> Att. 6 from 07:05 to 07:14; Att. 7 from 04:39 to 04:41.

<sup>14</sup> Att. 6 at 07:15.

<sup>15</sup> Att. 6 at 07:30; Att. 7 at 05:00.

<sup>16</sup> Att. 6 at 07:33.

<sup>17</sup> Att. 6 at 07:38.

<sup>18</sup> During her statement, Officer Rojas admitted to her verbal abuse and acknowledged it was bias-based and unacceptable. Officer Rojas explained that she made the comments as a result of being "irate." During Officer Gallardo's statement, he stated he did not recall hearing Officer Roja's verbal abuse; however, after viewing the BWC footage, he too acknowledged her language was unacceptable. Att. 6 from 08:08 to 08:14; Att. 7 from 05:38 to 05:45; Att. 30, pg. 15, lns. 8 to 15; Att. 31, pg. 17, lns. 11 to 19, pg.19, lns. 17 to 24, pg. 20, lns. 1 to 6.

respond to Officer Rojas' verbal abuse but did deactivate his BWC. Officer Gallardo completed the citation and Officer Rojas provided it to [REDACTED]<sup>19</sup>

During their statements, the officers could not explain why they failed to complete an ISR and failed to issue [REDACTED] an Investigatory Stop Receipt, but they acknowledged both documents were required.<sup>20</sup> Additionally, the officers could not recall filing the issued citation but recounted that their unit's practice was to place issued citations in a central collection bin.<sup>21</sup> Further, Officer Rojas acknowledged she failed to properly activate her BWC while Officer Gallardo acknowledged he improperly deactivated his BWC.<sup>22</sup>

### III. ALLEGATIONS<sup>23</sup>

#### **Officers Axel Gallardo and Yesenia Rojas:**

1. Performed a traffic stop on [REDACTED] without justification.
  - Exonerated.
2. Issued [REDACTED] a traffic citation in response to his request for documentation of the traffic stop.
  - Sustained in violation of Rules 2, 3, and 6.
3. Failed to complete an Investigatory Stop Report ("ISR").
  - Sustained in violation of Rules 2, 3, and 6.
4. Failed to issue [REDACTED] an Investigatory Stop Report ("ISR") receipt.
  - Sustained in violation of Rules 2, 3, and 6.
5. Failed to operate Body Worn Camera ("BWC") in accordance with Special Order S03-14: Body Worn Cameras.
  - Sustained in violation of Rules 2, 3, and 6.
6. Failed to document [REDACTED] traffic stop in accordance with Special Order S04-14-09: Illinois Traffic Stop Statistical Study.
  - Sustained in violation of Rules 2, 3, and 6.
7. Failed to properly file the traffic citation issued to [REDACTED]
  - Not Sustained.

#### **Officer Axel Gallardo:**

8. Handcuffed [REDACTED] too roughly.
  - Not Sustained.
9. Searched [REDACTED] vehicle without justification.
  - Exonerated.
10. Failed to report Officer Yesenia Rojas' verbal abuse of [REDACTED]
  - Sustained in violation of Rules 2, 3, 6, and 22.

<sup>19</sup> Att. 7 at 11:09.

<sup>20</sup> Att. 30, pg. 12, Ins. 1 to 6, pg. 21, ln. 23 to pg. 22, ln. 3; Att. 31, pg. 10, ln. 23 to pg. 11, ln. 5.

<sup>21</sup> Att. 30, pg. 12, Ins. 15 to 24, pg. 44, Ins. 19 to 24; Att. 31, pg. 12, ln. 23 to pg. 13, ln 21.

<sup>22</sup> Neither officer could provide an explanation for these failures. Att. 30, pg. 15, Ins. 5 to 7; Att. 31, pg. 15, ln. 2 to 7.

<sup>23</sup> The allegations have been reordered for the purpose of this report.

**Officer Yesenia Rojas:**

8. Manipulated [REDACTED] handcuffs in a manner that caused discomfort.
  - Not Sustained.
9. Performed a pat-down on [REDACTED] without justification.
  - Exonerated.
10. Engaged in an unnecessary verbal altercation with [REDACTED]
  - Sustained in violation of Rules 2, 3, 6, 8, and 9.
11. Called [REDACTED] words to the effect of “you fucking faggot ass bitch” and “you fucking retard.”
  - Sustained in violation of Rules 2, 3, 6, 8, and 9.

**IV. CREDIBILITY ASSESSMENT**

This investigation did not reveal any evidence that caused COPA to question the credibility of any of the individuals (sworn or unsworn) who provided statements.

**V. ANALYSIS<sup>24</sup>****a. Detention and Search Allegations**

COPA finds Allegation #1 against the officers, that they improperly detained [REDACTED] is **exonerated**. Additionally, Allegation #9 against Officer Gallardo, that he improperly searched [REDACTED] vehicle, and Allegation #9 against Officer Rojas, that she improperly searched [REDACTED] person, are **exonerated**. CPD members are permitted to conduct a traffic stop when there is “at least [an] articulable and reasonable suspicion that the particular person stopped is breaking the law.”<sup>25</sup> Reasonable articulable suspicion is “an objective legal standard that is less than probable cause but more substantial than a hunch or general suspicion. Reasonable Articulable Suspicion depends on the totality of the circumstances which the sworn member observed and the reasonable inferences that are drawn based on the sworn member’s training and experience.”<sup>26</sup> In the City of Chicago, all vehicle owners who reside within the City must have a valid wheel tax license emblem, also known as a City sticker, displayed on their vehicle.<sup>27</sup> Additionally, cannabis can only be lawfully transported when it is in a sealed, odor-proof, child-resistant container.<sup>28</sup> Therefore, when a CPD member detects the odor of cannabis emitting from a vehicle, the officer has probable cause to conduct a search of the vehicle. This principle has been extended to include searches of the driver and passengers of that vehicle.<sup>29</sup>

<sup>24</sup> For a definition of COPA’s findings and standards of proof, see Appendix B.

<sup>25</sup> *United States v. Rodriguez-Escalera*, 884 F.3d 661, 667-68 (7th Cir. 2018) (citing *Delaware v. Prouse*, 440 U.S. 648, 663 (1979)).

<sup>26</sup> Att. 40, S04-13-09 II(C) Investigatory Stop System (effective July 10, 2017 to present).

<sup>27</sup> MCC 3-56-020.

<sup>28</sup> 625 ILCS 5/11-502.15(c); see also MCC 7-24-099(b)(4).

<sup>29</sup> *People v. Zayed*, 2016 IL App (3rd) 140780 (2016).

Here, the officers observed ██████ operating a vehicle with an invalid City of Chicago sticker. This observation created probable cause to detain ██████ for an investigation. Once ██████ was detained, the officers detected the odor of cannabis and observed remnants of cannabis in his vehicle. These observations permitted the officers to search ██████ person and his vehicle for evidence of criminal activity, specifically cannabis. Therefore, COPA finds the officers' decisions to stop ██████ and search his person and vehicle were reasonable.

COPA finds that Allegation #8 against Officer Gallardo, that he roughly handcuffed ██████ and Allegation #8 against Officer Rojas, that she manipulated the handcuffs on ██████ to cause discomfort, are **not sustained**. COPA was unable to locate sufficient evidence, beyond the involved parties' statements, to refute or corroborate these allegations.

#### **b. Verbal Abuse and Failure to Report Misconduct Allegations**

COPA finds that Allegations #10 and 11 against Officer Rojas, that she engaged ██████ in an unnecessary verbal altercation and referred to him with words to the effect of "faggot ass bitch" and "fucking retard," are **sustained**. CPD Rules 8 and 9 prohibit members from engaging in any unjustified verbal altercation and/or maltreating or disrespecting any person.<sup>30</sup> Additionally, CPD policy mandates that all "members treat all persons with courtesy and dignity which is inherently due every person as a human being. Department members will act, speak, and conduct themselves in a professional manner ... and maintain a courteous attitude in all contacts with the public."<sup>31</sup> The policy also states that members "will not exhibit a condescending attitude or direct any derogatory terms toward any person in any manner."<sup>32</sup>

In this case, Officer Rojas' unnecessary verbal altercation and biased-based verbal abuse are clearly documented on BWC. Additionally, Officer Rojas admitted to calling ██████ a "faggot ass bitch" and "fucking retard" during her COPA statement, and she acknowledged her words were biased-based and unacceptable. For these reasons, COPA finds that Officer Rojas' verbal altercation with and derogatory comments towards ██████ constituted a clear violation of CPD policy and Rules 2, 3, 6, 8, and 9.

COPA finds Allegation #10 against Officer Gallardo, that he failed to report Officer Rojas' verbal abuse, is **sustained**. CPD Rule 22 mandates members "report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, order or directives of the Department."<sup>33</sup> Here, Officer Gallardo's BWC footage clearly captured Officer Rojas' biased-based verbal abuse of ██████. It is also undisputed that Officer Gallardo did not report Officer Rojas' verbal abuse. Although Officer Gallardo told COPA he did not recall hearing Officer Rojas' verbal abuse, as he was too busy writing ██████ a citation, COPA finds it

<sup>30</sup> Article V, Rules 8 and 9 of the Rules and Regulations of the Chicago Police Department.

<sup>31</sup> Att. 29, G02-01 III (B), Human Rights and Resources (effective October 15, 2017, to current); Att. 34, G02-04 II (C), Prohibition Regarding Racial Profiling and Other Bias Based Policing (effective December 1, 2017, to current).

<sup>32</sup> Att. 29, G02-01 III(D).

<sup>33</sup> Article V, Rule 22 of the Rules and Regulations of the Chicago Police Department.

more likely than not that he did. Officer Gallardo was sitting inside the CPD vehicle, less than three feet away from Officer Rojas, at the time she yelled out her window at [REDACTED]. Her words were clear, loud, and highly offensive. Under these circumstances, COPA finds the preponderance of the evidence shows that Officer Gallardo heard and failed to report Officer [REDACTED] verbal abuse, violating both CPD policy and Rules 2, 3, 6, and 22.

### c. Body Camera Allegations

COPA finds that Allegation #5 against the officers, that they failed to properly operate their BWC, is **sustained**. CPD members are required to activate their BWCs at the beginning of all law-enforcement-related activities.<sup>34</sup> Additionally, CPD members are not permitted to deactivate their BWCs until law-enforcement-related activities have concluded,<sup>35</sup> upon request by a victim or witness to a crime, or when interacting with a confidential informant.<sup>36</sup> When a CPD member deactivates a BWC while still engaged in law-enforcement-related activity, they “will verbally justify [the deactivation] on the BWC.”<sup>37</sup>

Here, it is undisputed that Officer Rojas waited approximately two and half minutes after stopping [REDACTED] to activate her BWC. Officer Rojas’ failure resulted in a lack of audio as the officers initially spoke to [REDACTED] requested that he exit the vehicle, and placed him in handcuffs. Additionally, it is undisputed that Officer Gallardo terminated his BWC approximately five minutes prior to the conclusion of the law-enforcement-related encounter. Both officers admitted their failures during their COPA statements. For these reasons, COPA finds that Officer Rojas’ delay in activation and Officer Gallardo’s premature deactivation violated CPD policy and Rules 2, 3, and 6.

### d. Paperwork Allegations

COPA finds that Allegations #3 and 4 against the officers, that they failed to complete an ISR or issue [REDACTED] an Investigatory Stop Receipt, are **sustained**. CPD members who “conduct an Investigatory Stop, Probable Cause stop when no other document captures the reason for the detention, and, if applicable, a Protective Pat Down or other search in a public place, are required

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<sup>34</sup> Law-enforcement-related activities include but are not limited to: “calls for service; investigatory stops; traffic stops; traffic control; foot and vehicle pursuits; arrest; use of force incidents; seizure of evidence; interrogations; searches, including searches of people, items, vehicle, buildings, and places; statements made by individuals in the course of an investigation; requests for consent to search; emergency driving situations; emergency vehicle responses where fleeing suspects or vehicle may be captured on video leaving the crime scene; high-risk situations; any encounter with the police that becomes adversarial after the initial contact; arrestee transports; any other instance when enforcing the law.” Att. 27, S03-14 III(A)(2)(a-r), Body Worn Cameras (effective April 30, 2018 to present).

<sup>35</sup> Law-enforcement-related activities conclude when “the member has cleared the assignment; the member leaves the scene of the incident;” an arrested subject “is secured in the processing room and the member is only conducting administrative functions,” or “custody has been transferred to another CPD member;” or deactivation is instructed by the “highest-ranking on-scene Bureau of Patrol supervisor.” Att. 27, S03-14 III(B)(10).

<sup>36</sup> Att. 27, S03-14 III(B)(1)(a-d).

<sup>37</sup> Att. 27, S03-14 III(B)(4).

to submit an Investigatory Stop Report.”<sup>38</sup> The ISR must detail all of the factors that support the member’s reasonable articulable suspicion or probable cause to detain and/or search the subject. Additionally, CPD policy provides that, “Upon the completion of an Investigatory Stop that involves a Protective Pat Down or any other search, sworn members are required to provide the subject of the stop a completed Investigatory Stop Receipt.”<sup>39</sup>

Here, it is undisputed that [REDACTED] was detained beyond the scope of a traffic stop and that he and his vehicle were subjected to searches. It is also undisputed that the officers did not complete an ISR, nor issue [REDACTED] with an Investigatory Stop Receipt as required. Therefore, COPA finds the officers’ failure to complete an ISR and issue [REDACTED] an Investigatory Stop Receipt violated CPD policy and Rules 2, 3, and 6.

COPA finds that Allegation #2 against the officers, that they issued [REDACTED] a citation in response to his request for documentation, is **sustained**. CPD policy states that CPD “will not tolerate abuse of law enforcement authority. While the Department does recognize the concept of discretion, that discretion must be reasonable, defensible and many not be for an improper purpose.”<sup>40</sup> In this situation, COPA finds it is more likely than not that the officers’ decision to issue a citation was a punitive act in response to [REDACTED] request for documentation that he was entitled to by CPD policy. This finding is based on Officer Gallardo’s actions during his completion of the name check, his response to [REDACTED] request for a receipt, Officer Rojas’ response to Officer Gallardo’s writing of the citation, and both officers’ active involvement in the issuance of the citation. For these reasons, COPA finds the issuance of the citation violated CPD policy and Rules 2, 3 and 6.

COPA finds that Allegation #6 against the officers, that they failed to properly document the traffic stop of [REDACTED] in accordance with CPD policy, is **sustained**. CPD policy mandates that “members who initiate a traffic stop that results in the issuance of a Personal Service citation for an Illinois Vehicle Code, Traffic Code of Chicago, or compliance violation will...complete a Traffic Stop Statistical Study Sticker” that includes the prescribed information.<sup>41</sup> In this case, the officers admitted they did not complete the required sticker. While the officers asserted that they were not required to document the traffic stop with a Traffic Stop Statistical Study Sticker, their assertion is contradicted by CPD policy. For these reasons, COPA finds the officers’ failure violated CPD policy and Rules 2, 3, and 6.

COPA finds that Allegation #7 against the officers, that they failed to properly file the issued traffic citation, is **not sustained**. Based on the available evidence, COPA is unable to determine if the officers properly deposited the citation in their unit’s bin for the citation to be entered and filed with the court.

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<sup>38</sup> Att. 26, S04-13-09 VIII(A)(1).

<sup>39</sup> Att. 40, S04-13-09 VIII(A)(3).

<sup>40</sup> Att. 29, G02-01 III(F).

<sup>41</sup> Att. 26, S04-14-09 V(C)(2): Illinois Traffic and Pedestrian Stop Statistical Study (effective March 23, 2018 to present) (emphasis removed).

## VI. DISCIPLINARY RECOMMENDATION

### a. Officer Axel Gallardo

#### i. Complimentary and Disciplinary History<sup>42</sup>

Officer Gallardo has received 60 various awards. Additionally, Officer Gallardo has received two SPARS for failing to perform assigned tasks, one in 2022 and one in 2023.

#### ii. Recommended Discipline

COPA has found that Officer Gallardo failed to properly operate his BWC, issued a citation as a punitive response to ██████ request for documentation, and failed to report the biased-based verbal abuse committed by Officer Rojas. Officer Gallardo's premature BWC deactivation directly impacted COPA's investigation, in that his BWC failed to capture the entirety of his interaction with ██████. Additionally, Officer Gallardo's failure to address Officer Rojas' verbal abuse is problematic, as her comments served no purpose other than to degrade and denigrate a member of the public who was being subjected to enforcement action. Finally, when viewing the evidence in its entirety, Officer Gallardo's decision to issue a citation in response to ██████ request for documentation of the interaction can only be described as retaliatory. It is for these reasons, combined with Officer Gallardo's complimentary and disciplinary history, that COPA recommends Officer Gallardo be **suspended for 30 days**.

### b. Officer Yesenia Rojas

#### i. Complimentary and Disciplinary History<sup>43</sup>

Officer Rojas has received 57 various awards, including one Superintendent's Award of Tactical Excellence. Additionally, in the last five years, Officer Rojas has received one reprimand in 2022 for a preventable traffic accident.

#### ii. Recommended Discipline

COPA has found that Officer Rojas failed to timely activate her BWC, issued a citation as a punitive response to ██████ request for documentation, engaged in an unnecessary verbal altercation, and directed biased-based verbal abuse at ██████ while engaged in enforcement action. Officer Rojas' failure to properly operate her BWC directly impacted COPA's investigation, in that her BWC failed to capture the entirety of her interaction with ██████. Additionally, when viewing the evidence in its entirety, Officer Rojas' decision to issue a citation in response to ██████ request for documentation can only be described as retaliatory. Finally, Officer Rojas' self-admitted verbal altercation and verbal abuse of ██████ is inexcusable, and the fact that Officer

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<sup>42</sup> Att. 35.

<sup>43</sup> Att. 36.



Rojas used the words “faggot ass bitch” and “retard” while engaged in enforcement action makes her conduct even more egregious. However, in mitigation, COPA acknowledges that Officer Rojas made the comments inside the CPD vehicle, and there is no indication that ██████ heard the specific words she used.<sup>44</sup> Officer Rojas also admitted to her use of biased-based language and acknowledged it was unacceptable. It is for these reasons, combined with Officer Rojas’ complimentary and disciplinary history, that COPA recommends Officer Rojas be **suspended for 180 days.**

Approved:

████████████████████

Steffany Hreno  
*Director of Investigations*

5/30/2023

Date

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<sup>44</sup> During his statement to COPA, ██████ recounted that he heard Officer Rojas “making fun of him” while she was seated in the CPD vehicle, but he was unable to recall any specific words that she used. Att. 2 at 26:15.

Appendix ACase Details

Date/Time/Location of Incident:	April 7, 2021 / 1:26 pm / 3159 W. Roosevelt Rd., Chicago, IL 60623.
Date/Time of COPA Notification:	April 7, 2021 / 7:26 pm
Involved Member #1:	Officer Axel Gallardo, Star #12210, Employee ID # [REDACTED] DOA: May 16, 2018, Unit: 211, Male, Hispanic.
Involved Member #2:	Officer Yesenia Rojas, Star #18275, Employee ID # [REDACTED] DOA: March 16, 2018, Unit: 211, Female, 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 22:** Failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders, or directives of the Department.

Applicable Policies and Laws

- G02-01: Human Rights and Human Resources (effective October 5, 2017 to June 30, 2022).<sup>45</sup>
- G02-04: Prohibition Regarding Racial Profiling and Other Bias Based Policing (effective December 1, 2017 to June 30, 2022).<sup>46</sup>
- S03-14: Body Worn Cameras (effective April 30, 2018 to present).<sup>47</sup>

<sup>45</sup> Att. 29.<sup>46</sup> Att. 34.<sup>47</sup> Att. 27.

- S04-13-09: Investigatory Stop System (effective July 10, 2017 to present).<sup>48</sup>
- S04-14-09: Illinois Traffic and Pedestrian Stop Statistical Study (effective March 23, 2018 to present).<sup>49</sup>

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<sup>48</sup> Att. 13.

<sup>49</sup> Att. 26.

## 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>50</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>51</sup>

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<sup>50</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>51</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