



Log # 2023-4040

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On September 2, 2023, the Chicago Police Department's (CPD) Crime Prevention and Information Center (CPIC) notified the Civilian Office of Police Accountability (COPA) of an officer-involved shooting that occurred earlier that day at approximately 2:03 am near 9906 S Ewing Ave.² COPA learned that on-duty CPD members, Officers Ariel Harris and Jose Huerta, discharged their firearms at ██████████ after she pointed a firearm at the officers when they attempted to engage her. Following its investigation, COPA determined that Officer Harris and Officer Huerta's use of deadly force complied with CPD policy; however, COPA served allegations that both officers failed to timely activate their body-worn cameras during the incident. COPA reached sustained findings regarding the allegations.

II. SUMMARY OF EVIDENCE³

On September 2, 2023, at approximately 2:03 am, Officers Harris and Huerta were on routine patrol, working Beat 484, in uniform.⁴ They were assigned a marked squad car, with Officer Huerta driving.⁵ As the officers drove south on Ewing Avenue, they observed a male subject, later identified as ██████████ with apparent facial injuries standing in the street with the driver's door of a green Chevrolet Silverado open.⁶ The officers also observed a female subject, later identified as ██████████ on the sidewalk near ██████████⁷ The officers stopped briefly to ask ██████████ if he needed an ambulance.⁸ ██████████ declined assistance, so the officers continued

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 Pursuant to § 2-78-120 of the Chicago Municipal Code, COPA has a duty to investigate all incidents in which a CPD member discharges their firearm. Therefore, COPA determined it would be the primary administrative 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 BWC footage, POD footage, third-party video, OEMC transmissions, police reports, and officer interviews.

⁴ Att. 85, pg. 7, lns. 17 to 19, and pg. 10, lns. 15 to 19; Att. 86, pg. 9, lns. 16 to 18.

⁵ Att. 85, pg. 9, lns. 11 to 16; Att. 86, pg. 11, ln. 7 to pg. 12, ln. 2.

⁶ Att. 61 at 2:02:17 to 2:03:33; Att. 85, pg. 11, lns. 12 to 15; Att. 86, pg. 12, lns. 14 to 16, and pg. 13, lns. 1 to 13; Att. 101, pgs. 12 to 13.

⁷ Att. 85, pg. 12, ln. 16 to pg. 13, ln. 4; Att. 86, pg. 15, lns. 5 to 16.

⁸ Att. 15 at 0:00 to 0:26; Att. 16 at 0:00 to 0:22; Att. 117. The body-worn cameras were not activated so both videos begin in buffer mode.

driving south and made a U-turn.⁹ Meanwhile, a resident at [REDACTED]¹⁰ called 911 and reported that there was a couple (white male and Hispanic female¹¹) with a gun walking in the middle of the street.¹² The caller reported that the couple was currently speaking with the police and specified that the female had the gun. The caller relayed that before the police arrived, the couple was yelling at passing cars, and the female pointed a gun at the male.

Officers Huerta and Harris heard the radio broadcast reporting a couple with a gun at their location.¹³ Officer Harris brought up the call on the vehicle's portable data terminal (PDT),¹⁴ and read that the female [REDACTED] was armed with a handgun.¹⁵ Upon seeing the officers return, [REDACTED] approached the driver's side of the squad car.¹⁶ Officer Huerta asked [REDACTED] if he had anything on him that he should not have.¹⁷ Officer Harris told Officer Huerta that [REDACTED] was reportedly armed.¹⁸ Officer Huerta told [REDACTED] to step back, and he drove forward.¹⁹ [REDACTED] began walking away, traveling north on Ewing on the west sidewalk.²⁰

The officers exited their squad car²¹ and activated their body-worn cameras, and the audio for the incident began.²² Officer Harris approached [REDACTED] from the street, and Officer Huerta approached [REDACTED] from the sidewalk. Officer Huerta told [REDACTED] to, "Come here" and show her hands.²³ [REDACTED] kept walking.²⁴ [REDACTED] dropped a cell phone onto the sidewalk at [REDACTED] and, according to Officer Huerta, clenched a black garbage bag in her left hand and reached with her right hand toward her left side for an unknown object.²⁵ [REDACTED] then pulled a handgun from the left side of her body and pointed it at the officers.²⁶

⁹ Att. 15 at 0:26 to 0:57; Att. 16 at 0:48 to 0:55; Att. 86, pg. 12, lns. 16 to 19; Att. 101, pg. 13. Officer Huerta said he made the U-turn to continue on patrol. Att. 86, pg. 19, lns. 8 to 13.

¹⁰ Efforts to interview the 911 caller, identified as "Donna," were unsuccessful. Att. 89; CMS Notes: CO-1348180, CO-1348182, and CO-1348369.

¹¹ The caller specified that the male was wearing a t-shirt and jeans, and the female was wearing all black.

¹² Atts. 11 and 55. CPD Detectives identified the 911 caller as Danousia Noble. Att. 100, pgs. 16 to 17.

¹³ Att. 85, pg. 14, lns. 14 to 24; Att. 86, pg. 16, lns. 7 to 10.

¹⁴ Att. 15 at 0:46.

¹⁵ Att. 86, pg. 17, lns. 6 to 9.

¹⁶ Att. 15 at 1:44; Att. 85, pg. 15, ln. 15 to pg. 16, ln. 17.

¹⁷ Att. 86, pg. 20, ln. 13 to pg. 21, ln. 2.

¹⁸ Att. 86, pg. 17, lns. 12 to 13.

¹⁹ Att. 15 at 1:49 to 1:57; Att. 86, pg. 17, lns. 11 to 14.

²⁰ Att. 61 at 2:05:05; Att. 86, pg. 17, lns. 14 to 16, and pg. 21, lns. 15 to 17.

²¹ There was no video captured on the squad car's in-car camera system. Att. 14; Att. 100, pg. 16.

²² Att. 15 at 1:59; Att. 16 at 1:59; Att. 61 at 2:05:18.

²³ Att. 15 at 2:02 to 2:08; Att. 16 at 2:00 to 2:05; Atts. 63 and 64.

²⁴ Att. 85, pg. 16, lns. 19 to 23, and pg. 18, lns. 2 to 3; Att. 86, pg. 17, lns. 16 to 19.

²⁵ Att. 15 at 2:05 to 2:06; Att. 16 at 2:03 to 2:05; Att. 86, pg. 17, lns. 19 to 23; Att. 100, pg. 22; Att. 101, pg. 13.

²⁶ Att. 15 at 2:09; Att. 16 at 2:06; Att. 61 at 2:05:28; Att. 85, pg. 18, lns. 4 to 19; Att. 86, pg. 17, ln. 23 to pg. 18, ln. 2, and pg. 29, lns. 14 to 22; Att. 101, pg. 12.



Figure 1: A screenshot from Att. 15, Officer Harris's BWC at 2:09, of [REDACTED] pointing a firearm at the officers.²⁷

Officer Huerta tried to take cover, and his police radio fell to the ground.²⁸ Each officer fired their handgun once toward [REDACTED].²⁹ Still on the line with OEMC, the 911 caller reported that the female ([REDACTED]) shot at the officers.³⁰ Two audible gunshots were heard on the OEMC recording. Officer Harris' handgun jammed, so she returned to the squad car to clear the jam.³¹ [REDACTED] fled north on Ewing and west on 99th Street.³² Officer Harris' radio battery was dead, so she activated the emergency button on the PDT to alert OEMC of an emergency.³³ Officer Huerta then retrieved his radio and notified OEMC of the shooting.³⁴ Believing [REDACTED] had fired at him and Officer Harris, Officer Huerta reported shots fired at and by the police.³⁵ Officer Harris reported hearing a gunshot but did not see a muzzle flash.³⁶ According to Officer Huerta, he saw

²⁷ Att. 15 at 2:09.

²⁸ Att. 86, pg. 35, lns. 4 to 10.

²⁹ Atts. 3, 4 and 10; Att. 15 at 2:10 to 2:12; Att. 16 at 2:09 to 2:11; Att. 61 at 2:05:30; Att. 85, pg. 19, lns. 10 to 24, and pg. 31, lns. 20 to 23; Att. 86, pg. 18, lns. 5 to 6, and pg. 25, lns. 12 to 14.

³⁰ Att. 55.

³¹ Att. 15 at 2:13 to 3:08; Att. 85, pg. 20, lns. 4 to 19; Att. 118. While clearing the jam from her weapon, Officer Harris ejected two rounds from her firearm. Att. 85, pg. 33, lns. 1 to 21.

³² Att. 61 at 2:05:35 to 2:05:50; Att. 85, pg. 25, lns. 11 to 17; Att. 86, pg. 25, lns. 17 to 21.

³³ Att. 15 at 2:25 to 2:30; Att. 85, pg. 22, lns. 16 to 19, and pg. 23, lns. 1 to 24.

³⁴ Att. 16 at 2:32 to 2:58; Att. 60 at 2:12 to 2:52; Att. 86, pg. 34, lns. 3 to 12.

³⁵ Att. 15 at 6:15 to 6:26; Att. 85, pg. 29, lns. 10 to 16; Att. 86, pg. 34, ln. 14 to pg. 35, ln. 1.

³⁶ Att. 85, pg. 19, lns. 10 to 18, and pg. 21, lns. 10 to 12; Att. 101, pg. 12.

██████████ pull the trigger of the gun and heard a click.³⁷ Officer Huerta said he never heard any gunshots, including from his weapon.³⁸ Responding officers arrived on scene and detained ██████████³⁹ ██████████ was brought to Area 2 for questioning following the incident but was released without charges.⁴¹ The officers later learned from Detectives and CPD supervisory personnel that ██████████ never discharged the weapon.⁴²

Regarding the body-worn camera allegations, Officer Harris said she thought she activated her body-worn camera before exiting the vehicle.⁴³ Officer Huerta explained that he did not activate his body-worn camera sooner because he was focused on the threat, but he believes he activated his body-worn camera at the appropriate time.⁴⁴

CPD reports document the recovery of evidence following the shooting.⁴⁵ Evidence Technicians (ETs) recovered two (2) fired cartridge cases from the crime scene.⁴⁶ The reports also document the processing of Officer Harris's Glock Model 19 pistol and magazine.⁴⁷ The weapon, whose magazine's capacity is fifteen (15) plus one (1) chambered round, was found to have twelve (12) live rounds of ammunition in the magazine and one (1) live round in the chamber (all stamped "Win 9mm Luger +P"). ETs also recovered two (2) live rounds from Officer Harris that she ejected from her firearm when it jammed.⁴⁸ CPD reports further document the processing of Officer Huerta's Sig Sauer Model P320 pistol and magazine.⁴⁹ The weapon, whose magazine's capacity is seventeen (17) plus one (1) chambered round, was found to have sixteen (16) live rounds of ammunition in the magazine and one (1) live round in the chamber (all stamped "Win 9mm Luger +P"). Additionally, ETs recovered a Stoeger Model STR-9C pistol loaded with an unknown number of live rounds in the rear of ██████████⁵⁰

The Illinois State Police subsequently tested the ballistics evidence and determined that one (1) fired cartridge casing was fired by Officer Harris's weapon, and one (1) fired cartridge casing was fired by Officer Huerta's weapon.⁵¹

³⁷ Att. 86, pg. 18, lns. 4 to 5.

³⁸ Att. 86, pg. 27, lns. 8 to 13.

³⁹ Att. 62 at 4:18 to 5:00; Att. 85, pg. 26, lns. 4 to 10; Att. 100, pg. 20.

⁴⁰ COPA was unable to contact ██████████ Att. 122; See Case Management System (CMS) note CO-1414082.

⁴¹ Att. 20; Att. 100, pgs. 20 to 21.

⁴² Att. 85, pg. 27, ln. 23 to pg. 28, ln. 8; Att. 86, pg. 38, ln. 22 to pg. 39, ln. 2.

⁴³ Att. 85, pg. 40, ln. 22 to pg. 41, ln. 21, and pg. 43, lns. 3 to 19.

⁴⁴ Att. 86, pg. 39, lns. 6 to 24, and pg. 40, ln. 21 to pg. 41, ln. 12.

⁴⁵ Atts. 12, 27 to 36, 38 to 44, and 100.

⁴⁶ Atts. 32 and 39.

⁴⁷ Atts. 27 and 34.

⁴⁸ Att. 38; Att. 100, pg. 20.

⁴⁹ Atts. 35 and 44.

⁵⁰ Atts. 28, 36, 39, and 87; Att. 100, pg. 17.

⁵¹ Att. 105.

CPD records show that on the morning of September 2, 2023, following the incident, Officers Harris and Huerta submitted to drug and alcohol testing per CPD policy.⁵² They both tested negative.

Further investigation by detectives revealed that during a 2017 arrest, ██████ listed ██████ as an emergency contact.⁵³ An Accurint search and subsequent name check showed that ██████ resided at the same address as ██████. A LEADS name inquiry disclosed an Illinois Driver's License photograph with height, weight, and age demographics similar to the involved subject's image captured on body-worn camera and Police Observation Device video. Detectives obtained a search warrant, performed a mobile device data extraction on the cell phone recovered at the crime scene, and determined that the phone was registered to ██████⁵⁴ ██████ fingerprints were also found at the crime scene.⁵⁵ ██████ was arrested on October 23, 2023 and charged⁵⁶ with Attempted First Degree Murder, Aggravated Unlawful Use of a Weapon, and Aggravated Assault/ Use of a Firearm to a Peace Officer.⁵⁷

An electronically recorded interview⁵⁸ (ERI) was conducted following ██████ arrest. ██████ stated that she was with her friend, ██████ on the date of the incident.⁵⁹ ██████ and ██████ had both been drinking alcohol.⁶⁰ ██████ kept walking into the street. ██████ grabbed ██████ and yelled at him to get out of the street. Two police officers drove up in a marked squad car and told ██████ to come here. ██████ armed with a black handgun in her right waistband, walked away and told the officers to leave her alone. Once the officers exited the squad car, ██████ ran and shot once at the police officers.⁶¹ The officers fired back at ██████⁶² ██████ ran toward the alley and discarded the gun.

III. ALLEGATIONS

Officer Ariel Harris:

1. Failed to timely activate her body-worn camera in violation of Special Order S03-14.
 - Sustained, Violation of Rules 2, 3, 5, 6, 10 and 11.

⁵² Atts. 119 to 121.

⁵³ Att. 100, pg. 21.

⁵⁴ Atts. 39 and 92.

⁵⁵ Att. 101, pgs. 9 to 11, and pg. 15; Att. 104.

⁵⁶ ██████ criminal case is still pending in court. Att. 113.

⁵⁷ Att. 88.

⁵⁸ COPA's attempts to interview ██████ were unsuccessful. See Case Management System (CMS) notes CO-1409957, CO-1409970, CO-1409979, CO-1413931, and CO-1414295.

⁵⁹ Att. 116 at 2:20 to 21:00.

⁶⁰ In an Electronically Recorded Interview on the same date, ██████ said the officers approached ██████ and he heard three gunshots. ██████ said he was unaware ██████ had a gun. Att. 115.

⁶¹ Att. 116 at 10:50 to 11:45.

⁶² In an electronically recorded interview, ██████ said the police fired three times and he fled. ██████ said he was unaware that ██████ had a firearm. Att. 115.

Officer Jose Huerta:

1. Failed to timely activate his body-worn camera in violation of Special Order S03-14.
 - Sustained, Violation of Rules 2, 3, 5, 6, 10 and 11.

Pursuant to section 2-78-120 of the Municipal Code of Chicago, COPA has a duty to investigate all incidents in which a CPD member discharges their firearm. During its investigation of this incident, COPA did not find evidence to support allegations related to Officer Harris or Officer Huerta's firearm discharge.

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. ANALYSIS⁶³**a. Officers Harris and Huerta's use of deadly force was within CPD policy.**

Following a thorough review of the evidence, COPA has determined that Officer Harris and Officer Huerta's use of force was consistent with CPD policy, and the actions of the officers in employing deadly force were objectively reasonable, proportional to the threat, and necessary to prevent imminent bodily harm or death to the officers. COPA also finds that the officers employed de-escalation tactics while it was safe and feasible. COPA further finds that the officers used deadly force as an option of last resort. COPA, therefore, concludes that Officer Harris and Officer Huerta's use of deadly force complied with CPD policy.

b. COPA finds that Officers Harris and Huerta failed to timely activate their body-worn camera.

To increase transparency and improve the quality and reliability of investigations, CPD policy mandates all law-enforcement-related encounters be electronically recorded by body-worn camera.⁶⁴ Law-enforcement-related encounters include but are not limited to foot and vehicle pursuits, traffic stops, investigatory stops, arrests, use of force incidents, high-risk situations, calls for service, emergency driving situations, and emergency vehicle responses where fleeing suspects or vehicles may be captured on video leaving the crime scene. The recording of law-enforcement-related encounters is mandatory. Officers must activate their body-worn cameras at the beginning of an incident and record the entire incident for all law-enforcement-related activities. If there are circumstances preventing the activation of the body-worn camera at the beginning of an incident, the officer will activate the body-worn camera as soon as practical.

⁶³ For a definition of COPA's standard of proof, *see* Appendix B.

⁶⁴ Att. 112, S03-14(III)(A)(1), Body Worn Cameras (effective April 30, 2018 to December 29, 2023).

In this case, the officers became actively engaged in law-enforcement-related activity when they stopped and engaged ██████ in the street. At the latest, the officers should have activated their body-worn cameras immediately upon hearing the radio broadcast of a couple with a gun at their location. It does not appear that there were any circumstances preventing either officer from activating their body-worn cameras sooner. COPA finds by a preponderance of the evidence that Officer Harris and Huerta's failure to timely activate their body-worn cameras violated CPD policy and Rules 2, 3, 5, 6, 10, and 11; therefore, Allegation #1 against Officers Harris and Huerta is Sustained.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Ariel Harris

i. Complimentary and Disciplinary History⁶⁵

Officer Harris has a total of (9) nine awards, including eight (8) Honorable Mentions and one (1) Emblem of Recognition. Officer Harris did not have any complaint registered numbers with sustained findings in the last five (5) years. Officer Harris had two (2) SPARs for preventable accident and court appearance violation.

ii. Recommended Discipline

COPA has found that Officer Harris failed to activate her body-worn camera in a timely manner. Officer Harris' actions were a clear violation of CPD policies. For these reasons, COPA recommends a violation noted.

b. Officer Jose Huerta

i. Complimentary and Disciplinary History⁶⁶

Officer Huerta has a total of 23 awards, including 22 Honorable Mentions and one (1) Complimentary Letter. Officer Huerta did not have any complaint registered numbers with sustained findings in the last five (5) years. Officer Huerta had two (2) SPARs for court appearance violation and indebtedness to the city.

⁶⁵ Attachment 123.

⁶⁶ Attachment 124.

ii. Recommended Discipline

COPA has found that Officer Huerta failed to activate his body-worn camera in a timely manner. Officer Huerta’s actions were a clear violation of CPD policies. For these reasons, COPA recommends a violation noted.

Approved:



Sherday Jackson
Deputy Chief Administrator – Chief Investigator

November 27, 2024
Date



Andrea Kersten
Chief Administrator

November 27, 2024
Date

Appendix A

Case Details

Date/Time/Location of Incident:	September 2, 2023 / 2:03 am / 9906 S Ewing Avenue
Date/Time of COPA Notification:	September 2, 2023 / 2:30 am
Involved Member #1:	Ariel Harris, Star #17987, Employee ID [REDACTED], Date of Appointment: January 31, 2022, Unit of Assignment: 004, Female, Black
Involved Member #2:	Jose Huerta, Star #7700, Employee ID [REDACTED], Date of Appointment: January 31, 2022, Unit of Assignment: 004, 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 11:** Incompetency of inefficiency in the performance of duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.

Applicable Policies and Laws

- G03-02, De-escalation, Response to Resistance, and Use of Force (effective June 28, 2023 to present)
- G03-02-01, Response to Resistance and Force Options (effective June 28, 2023 to present)
- S03-14: Body Worn Cameras (effective April 30, 2018, to December 29, 2023)

Appendix B

Definition of COPA's Findings and Standards of Proof

COPA applies a preponderance of the evidence standard to determine whether allegations of excessive force are warranted or well-founded.⁶⁷ Additionally, 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.⁶⁸ 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.”⁶⁹

⁶⁷ See Municipal Code of Chicago, Ch. 2-78-110

⁶⁸ 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).

⁶⁹ *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