



Log # 2022-2705

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On June 28, 2022, the Civilian Office of Police Accountability (COPA) received a web complaint from ██████████ reporting alleged misconduct by a member of the Chicago Police Department (CPD). ██████████ alleged that on June 28, 2022, Police Officer Daniel Gonzalez entered her apartment without justification.² Following its investigation, COPA reached sustained findings regarding the allegation of improperly entering ██████████ apartment.

II. SUMMARY OF EVIDENCE³

On June 28, 2022, Officers Daniel Gonzalez and Saul Diaz responded to a 911 call in the 1400 block of W 17th St. at approximately 12:34 am. The caller reported multiple individuals drinking, playing loud music, and creating a disturbance.⁴ Officers Gonzalez and Diaz were previously in the area assisting with an arrest at approximately 10:57 pm on June 27, 2022.⁵ During that arrest, three firearms were recovered from behind 1441 W 17th St.⁶

When Officers Gonzalez and Diaz arrived at the location of the call, they saw multiple individuals standing on the sidewalk on the south side of the street, at or near the apartment building at ██████████. Officer Diaz shined the spotlight from their patrol vehicle at those individuals, and they began to disperse.⁷ The officers exited their patrol vehicle and walked down an unsecured gangway between ██████████ and ██████████. Along that gangway, they discovered a fired cartridge case on a windowsill. They also found an unsecured entrance into a common-area hallway of ██████████.⁸

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 body-worn camera (BWC) footage, CPD reports, and civilian and officer interviews.

⁴ Att. 12.

⁵ Att. 17.

⁶ Att. 16.

⁷ Att. 6, BWC footage of Officer Gonzalez, at 0:41 to 2:02 and Att. 7, BWC footage of Officer Diaz, at 0:46 to 2:03.

⁸ Att. 6 at 4:23 to 5:13 and Att. 7 at 4:58 to 5:21. In her complaint to COPA, ██████████ alleged that CPD members removed the external door to her apartment building. *See* Att. 4. Officer Gonzalez's BWC video clearly showed that the door was already removed when he arrived at the apartment building, and COPA determined that there was no basis to serve Officer Gonzalez (or any other CPD member) with this allegation. *See* Att. 6 at 4:50.

The officers entered the apartment building, and Officer Gonzalez immediately saw an open door leading to a vacant apartment at the front of the first floor. Officer Gonzalez announced his office before entering and searching the apartment with Officer Diaz.⁹ Two additional officers, Officers Miguel Ordaz and Johnny Perez, came down the gangway as Officers Gonzalez and Diaz were searching the vacant apartment.¹⁰ Officers Ordaz and Perez searched a closet in the building's common hallway and also searched the building's basement before returning to the gangway.¹¹

After searching the vacant apartment, Officer Gonzalez searched the closet hallway and basement.¹² Then, he returned to the common-area hallway, tried the doorknob to the rear apartment, and found that the door was unlocked. As he was opening the door, the occupant of the apartment, ██████████ screamed, and Officer Gonzalez announced his office.¹³ ██████████ came to the door, and Officer Gonzalez explained the reason that he and the other officers were in the area, that they gained access to the building through the open exterior door, and that they were searching the area after recovering guns in the alley behind the building earlier that day.¹⁴ ██████████ gave Officer Gonzalez the contact information for her landlord and told Officer Gonzalez that the upstairs apartments in the building were occupied.¹⁵ At the end of their conversation, ██████████ closed her door and Officer Gonzalez confirmed that it was now locked.¹⁶ Officer Gonzalez closed and locked the door to the vacant front apartment and left the building.¹⁷

III. ALLEGATIONS

Police Officer Daniel Gonzalez:

1. Entering ██████████ apartment without justification.
 - Sustained, Violation of Rules, 1, 2, 3, 8, and 10.

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 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. In this case, COPA finds Officer Gonzalez to be generally credible in his description of the events occurring on the 1400 block of W 17th St. prior to entering ██████████ apartment. Officer

⁹ Att. 6 at 5:21 to 6:25 and Att. 7 at 5:29 to 7:05.

¹⁰ Att. 9 at 0:59 to 1:23 and Att. 10 at 0:00.

¹¹ Att. 9 at 1:28 to 2:07 and Att. 10 at 0:10 to 0:55.

¹² Att. 6 at 6:34 to 7:29.

¹³ Att. 6 at 7:35 to 7:46.

¹⁴ Att. 6 at 7:50 to 9:18.

¹⁵ Att. 6 at 8:13 to 8:27 and at 9:39 to 10:46.

¹⁶ Att. 6 at 12:59 to 13:09.

¹⁷ Att. 6 at 13:34 to 13:53.

Gonzalez's account was consistent with CPD reports documenting these events and his BWC video.

However, Officer Gonzalez's account of approaching [REDACTED] door and entering her apartment was inconsistent with the BWC video recordings generated by himself and the other officers at the scene. Specifically, Officer Gonzalez said that the door to [REDACTED] apartment was visibly open and that he pushed the door further ajar to enter the apartment.¹⁸ Officer Gonzalez's own BWC video is ambiguous on this point: the door to [REDACTED] apartment appears to be fully closed as Officer Gonzalez approached the door.¹⁹



Figure 1: A screenshot from Att. 6, Officer Gonzalez's BWC at 7:36, showing [REDACTED] apartment door as Officer Gonzalez approaches.

Officer Gonzalez's camera turned away from the door before he began pushing it open, and when the camera turned back towards the door, Officer Gonzalez's hand is away from the doorknob pushing the door open.²⁰

¹⁸ Att. 15 at 10:18 to 10:29 and at 12:35 to 13:26.

¹⁹ Att. 6 at 7:36.

²⁰ Att. 6 at 7:41.



Figure 2: A screenshot from Att. 6, Officer Gonzalez’s BWC at 7:41, showing [REDACTED] apartment door as Officer Gonzalez begins pushing it open.

Officer Gonzalez’s BWC video recording allows for the possibilities (1) that the door to [REDACTED] apartment was visibly open and that the gap between the frame and the door was not clearly captured on the video or (2) that Officer Gonzalez opened the door to [REDACTED] apartment during the time the door was out of frame and removed his hand from the knob before turning back towards the door.

COPA finds that it is more likely than not that [REDACTED] door was closed, but unlocked, and Officer Gonzalez opened it. The BWC video recording generated by Officer Ordaz shows Officer Gonzalez’s hand close to or touching the door handle, then moving away and pushing on the center of the door.²¹

²¹ Att. 10 at 2:03.



Figure 3: A screenshot from Att. 10, Officer Ordaz’s BWC at 2:03, showing Officer Gonzalez’s right hand on or near the handle of [REDACTED] door as he pushes the door open.

Every officer at the scene (including Officer Gonzalez) walked past [REDACTED] door at least once before Officer Gonzalez opened it,²² suggesting that none of them observed that the door was open. During his conversation with [REDACTED] Officer Gonzalez demonstrated how he opened the door, and he used the door handle during this demonstration.²³ In her statement to COPA, [REDACTED] said she was not certain if her door was fully closed at the time that Officer Gonzalez entered her apartment, but she believed the door was closed because her cat would otherwise have gotten out.²⁴

²² Att. 6 at 6:32; Att. 7 at 7:23 and at 7:38, Att. 9 at 1:28, at 2:02, and at 3:05; and Att. 10 at 0:07, at 0:49, and at 1:47.

²³ Att. 6 at 9:13.

²⁴ Att. 1 at 3:58 and at 12:53 to 13:08.

V. ANALYSIS²⁵

██████████ complained that Officer Daniel Gonzalez entered her apartment without a warrant.²⁶ Unless a defined exception applies, “searches conducted outside the judicial process, without prior approval by judge or magistrate, are *per se* unreasonable under the Fourth Amendment.”²⁷ Defined exceptions “are jealously and carefully drawn,”²⁸ and they include searches of abandoned property,²⁹ searches incident to a lawful arrest,³⁰ and instances where exigent circumstances justify a warrantless search.³¹

In his statement to COPA, Officer Gonzalez explained that his search of the building at ██████████ was based on (1) the presence of individuals causing a disturbance in front of the building immediately prior to the incident and (2) the guns recovered behind the building earlier that evening.³² These circumstances likely provided Officer Gonzalez with a valid basis for entering and searching the unsecured common area and the vacant apartment. However, further justification is required to enter an occupied residence,³³ and no defined search warrant exception justifies Officer Gonzalez’s warrantless entry into ██████████ apartment. The apartment was not vacant or abandoned, and there were clear signs of habitation apparent from the hallway.³⁴

CPD officers arrested a juvenile earlier that day in the alleyway behind ██████████ apartment.³⁵ The search-incident-to-arrest warrant exception allows officers to search areas within the vicinity where an arrest occurs to recover evidence of the crime that is the basis of the arrest.³⁶ This arrest occurred nearly two hours before Officer Gonzalez entered ██████████ apartment, and Officer Gonzalez had no reason to believe that the individual arrested had ever been in ██████████ apartment. Under these circumstances, Officer Gonzalez’s entry into ██████████ apartment was beyond the scope of a search that would be justified by that arrest.

The exigent circumstances warrant exception permits an officer to enter a home in pursuit of a suspect.³⁷ While Officer Gonzalez displaced several individuals in front of the apartment building who were causing a disturbance, and he entered the unsecured building on his suspicion that some individuals may have entered the building, Officer Gonzalez had no actual knowledge

²⁵ For a definition of COPA’s findings and standards of proof, *see* Appendix B.

²⁶ Att. 1 at 9:15. The threshold of an apartment door is considered curtilage under applicable law and therefore subject to Fourth Amendment requirements. *See* *People v. Bonilla*, 120 N.E.3d 930, 938-39 (Ill. 2018).

²⁷ *Katz v. United States*, 389 U.S. 347, 357 (1967).

²⁸ *Jones v. United States*, 357 U.S. 493, 499 (1958).

²⁹ *United States v. Pitts*, 322 F.3d 449, 454 (7th Cir. 2003).

³⁰ *Carroll v. United States*, 267 U.S. 132, 158 (1925).

³¹ *United States v. Santana*, 427 U.S. 38, 43 (1976).

³² Att. 15 at 5:58 to 7:05.

³³ *Florida v. Jardines*, 569 U.S. 1, 4 (2013) (“When it comes to the Fourth Amendment, the home is first among equals.”).

³⁴ Att. 6 at 4:52 (a doormat and shoe rack with several pairs of shoes were present outside of ██████████ door).

³⁵ Att. 16.

³⁶ *Chimel v. California*, 395 U.S. 752, 762-63 (1969).

³⁷ *United States v. Santana*, 427 U.S. 38, 43 (1976).

that a suspect had entered the apartment building, and Officer Gonzalez's suspicion alone is not sufficient to invoke the exigent-circumstances exception, particularly with regard to an occupied apartment.

Finally, an open door by itself does not authorize warrantless entry into a home. Rather, courts require an officer to announce their office and evidence of some other exigency to enter a home.³⁸ There is no evidence in this case that these requirements were met.

Because Officer Gonzalez made a warrantless entry into [REDACTED] apartment and no search warrant exception justified the entry, COPA finds that Allegation #1 is **sustained**, and that Officer Gonzalez violated Rules 1, 2, 3, 8, and 10.

VI. DISCIPLINARY RECOMMENDATION

a. Police Officer Daniel Gonzalez

i. Complimentary and Disciplinary History³⁹

Officer Gonzalez has received two Life Saving Awards, six Department Commendations, two complimentary letters, the Unit Meritorious Performance Award, sixty-nine Honorable Mentions, and five additional awards and commendations. Officer Gonzalez has no sustained disciplinary history in the past five years.

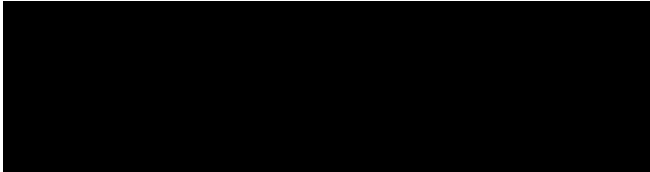
ii. Recommended Discipline

Here, COPA has found that Officer Gonzalez violated Rules 1, 2, 3, 8, and 10 by entering [REDACTED] apartment without justification. Officer Gonzalez was performing legitimate police duties while searching a vacant apartment and common areas of [REDACTED] building, and COPA did not find any evidence to suggest that his entry into [REDACTED] apartment was done maliciously or for any improper reason. However, Officer Gonzalez failed to consider that the apartment may have been occupied, and he failed to knock or announce his office prior to opening the door, even though he had every opportunity to do so. Officer Gonzalez's sudden intrusion into [REDACTED] home caused her unnecessary distress, and Officer Gonzalez's actions also needlessly endangered himself and his partners. Officer Gonzalez did cease his actions immediately upon discovering [REDACTED] inside the apartment, and he attempted to explain himself and to diffuse the situation. Considering all of the above and considering Officer Gonzalez's complimentary history and lack of disciplinary history, COPA recommends that Officer Gonzalez receive a **reprimand**.

³⁸ See, e.g., *People v. Aljohani*, 2022 IL 127037, ¶ 54; *Villegas v. City of Los Angeles*, No. 2021 U.S. Dist. LEXIS 248516, at *10 (C.D. Cal. 2021); *U.S. v. Martinez*, 686 F. Supp. 2d 1161, 1198-99 (D.N.M. 2009).

³⁹ Att. 21.

Approved:



10-30-2023

Angela Hearts-Glass
Deputy Chief Investigator

Date

Appendix ACase Details

Date/Time/Location of Incident:	June 28, 2022 / 12:42 am / [REDACTED], [REDACTED] [REDACTED]
Date/Time of COPA Notification:	June 28, 2022 / 5:04 pm
Involved Member #1:	Officer Daniel Gonzalez, Star #10364, Employee ID # [REDACTED], DOA: April 25, 2016, Uni: 012, Male, Hispanic
Involved Individual #1:	[REDACTED] Female, Asian

Applicable Rules

- Rule 1:** Violation of any law or ordinance.
- 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.

Applicable Policies and Laws

- The Fourth Amendment to the United States Constitution

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.⁴⁰ 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.”⁴¹

⁴⁰ 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).

⁴¹ *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