



Log # 2022-4216

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On October 1, 2022, the Civilian Office of Police Accountability (COPA) received an Initiation Report from the Chicago Police Department (CPD) Unit 014, alleging misconduct by a CPD member. It is alleged that on September 30, 2022, at approximately 10:15 pm, Officer Reynaldo Malave, star #14784, used excessive force on ██████████ (juvenile) causing an injury to his right ring finger.² Following its investigation, COPA reached an exonerated finding regarding the allegation of excessive force against Officer Malave.

II. SUMMARY OF EVIDENCE³

On September 30, 2022, at approximately 10:15 pm, Officers Reynaldo Malave and Benjamin Fern (collectively “the Officers”) were dispatched to the location of 3355 W. Belmont Avenue, the Chicago Transit Authority (CTA) BlueLine Train Station regarding an assault in progress and criminal damage to a CTA bus.⁴ Upon arrival at the location, the officers met with CTA bus driver, ██████████, who stated that three young Hispanic males were throwing bottles at the bus and at passengers that had gotten off the bus.⁵ Before the three males fled the location of the incident, ██████████ took photographs of them using her cellphone. The officers drove around the vicinity of the location of the incident in search of the three males.

At 3435 W. Belmont Avenue in the alley, the officers encountered two of the three males identified as, ██████████ and ██████████ both 14 years old.⁶ After recognizing that ██████████ and ██████████ fit the description of the accused subjects, the officers exited the police vehicle and detained them. As Officer Malave was about to place one handcuff on ██████████ left wrist, he stated that he had a BB gun in his right pocket.⁷ Officer Malave attempted to place the other handcuff on ██████████ right wrist, but he refused and pulled his hand away. Officer Malave instructed ██████████ to calm down and give him his hand and ██████████ stated, “No bro,” and continued to resist.⁸ Officer

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 BWC footage, police reports, evidence technician photos, medical records, and Officer Smith’s statement to COPA.

⁴ Atts. 10 and 11, OEMC Event Queries.

⁵ Atts. 12 and 14 from 2:27 to 4:30; Att. 10, Pg 2. – Description: One male wore a red jacket, another a blue and white jacket, and the third male wore a black jacket

⁶ The third unidentified Hispanic male fled on foot.

⁷ Atts. 12 and 14, from 6:58 to 7:20. ██████████ was wearing black jacket and ██████████ a red jacket.

⁸ Atts. 12 and 14 from 7:20 to 7:37.

Malave told ██████ that he was putting the handcuff on him because he was acting up.⁹ ██████ then accused Officer Malave of hurting him and hitting him. ██████ immediately stated to ██████ “No, he didn’t bro.”¹⁰ Officer Malave again repeated to ██████ to calm down and he complied.

Next, ██████ a victim of the assault by ██████ and ██████ appeared at the alley upset and aggressive.¹¹ He claimed that the boys threw rocks at him at the train station and at passing vehicles.¹² Assisting Officers Vicente Diaz, star #21002, and Gregory St. Louis, star #5153, drove ██████ and ██████ around the block to the CTA train station, where CTA bus driver ██████ positively identified them as two of the three offenders.¹³ Officers Diaz and St. Louis then transported the boys to the 014th District Station.¹⁴ Upon arrival at the station, ██████ complained of pain his right ring finger and was later transported to Saint Mary’s Hospital for medical treatment. ██████ was diagnosed with a nondisplaced fracture of phalanx to his right ring finger.¹⁵

According to Officer Malave, when he placed the handcuff on ██████ right hand, he did not use excessive force.¹⁶ Officer Malave explained that he did not know when and/or how ██████ sustained the injury to his right finger because ██████ did not complain of the injury until he arrived at the police station.¹⁷

██████ and ██████ were later transported to the 025th District Station. Sergeant George Kuzmanovski, star #873, interviewed ██████ in the presence of his mother, ██████.¹⁸ Sgt. Kuzmanovski asked ██████ what occurred to his finger, and he essentially explained that his finger was jammed against the police car.¹⁹

III. ALLEGATIONS

Officer Reynaldo Malave:

1. Used excessive force on ██████ causing an injury to his finger.
 - Exonerated

⁹ Att. 13 at 7:38.

¹⁰ Atts. 13 and 14, from 7:47 to 7:52.

¹¹ Att. 4. Herrera refused to sign complaints against ██████ and ██████

¹² Att. 13, from 00:30 to 3:53.

¹³ Att. 19, from 11:05 to 11:17.

¹⁴ Atts. 2 and 3 (arrest reports of ██████ and ██████)

¹⁵ Att. 22.

¹⁶ Att. 24 (statement of PO Malave), from 19:07 to 20:32. PO Malave completed a Tactical Response Report (TRR) for ██████ (att. 6).

¹⁷ Att. 24 (statement of PO Malave), from 19:07 to 20:32. PO Malave completed a Tactical Response Report (TRR) for ██████ (att. 6).

¹⁸ Att. 2, pg. 2. COPA made numerous attempts via US mail and telephone to Gonzalez but met with negative results. Review notes in Column for specifics regarding the attempts.

¹⁹ Att. 17, from 3:27 to 4:20. ██████ does not state in the video how his finger was jammed and/or who caused the injury.

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. ANALYSIS²⁰

COPA finds that Allegation #1 against Officer Malave that he used excessive force on ██████ is **Exonerated**. Under CPD policy, members may only use force that is objectively reasonable, necessary, and proportional to the threat, actions, and level of resistance offered by a person.²¹ When a CPD member encounters a person who attempts to create distance from a member with an intent to avoid physical control and/or defeat arrest, that person is classified as an active resister.²² CPD members may respond to active resistance with police presence, verbal directions, holding and compliance techniques, control instruments, stunning, takedowns, OC spray, Tasers, and canine use.²³

In this case, COPA finds ██████ was an active resister who failed to comply with orders to give up his hand. Officer Malave did not deliberately cause ██████ injury. He used the necessary verbal commands and holding techniques to gain compliance from ██████. The BWCs of Officers Malave and Fern captured ██████ resisting Officer Malave and claiming that Officer Malave hit him. ██████ immediately contradicted the allegation, saying it did not happen. The evidence gathered in this investigation established that it is possible that ██████ sustained the injury to his right ring finger from the incident. However, Officer Malave did not violate department rules and his conduct complied with CPD policy. As such, COPA finds Allegation #1 is **Exonerated**.

Approved:

████████████████████
 Sharday Jackson
 Deputy Chief Administrator – Chief Investigator

October 30, 2023

Date

²⁰ For a definition of COPA's findings and standards of proof, see Appendix B.

²¹ See G03-02 (III)(B), De-Escalation, Response to Resistance, and Use of Force (effective April 15, 2021 to present).

²² See G03-02 (III)(B), De-Escalation, Response to Resistance, and Use of Force (effective April 15, 2021 to present).

²³ See G03-02 (III)(B), De-Escalation, Response to Resistance, and Use of Force (effective April 15, 2021 to present).

Appendix ACase Details

Date/Time/Location of Incident:	September 30, 2022 /10:15 pm / 3435 W. Belmont Avenue, Chicago, IL 60618.
Date/Time of COPA Notification:	October 01, 2022, / 3:50 am.
Involved Officer #1:	Officer Reynaldo Malave/ Star #14614 /Employee ID # [REDACTED] / DOA: September 13, 1999 / Unit: 014 / Male / Hispanic.
Involved Individual #1:	[REDACTED] / Male / Hispanic.

Applicable Rules

- Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.
- Rule __:** *[Insert text of any additional rule(s) violated]*

Applicable Policies and Laws

- G03-02 (III)(B), De-Escalation, Response to Resistance, and Use of Force (effective April 15, 2021 to present).

Appendix B

Definition of COPA’s Findings and Standards of Proof

For each Allegation, COPA must make one of the following findings:

1. Sustained – where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained – where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded – where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated – where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that a proposition is proved.²⁴ 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.”²⁵

²⁴ 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).

²⁵ *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 Information

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