



Log # 2023-1278

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On March 26, 2023, the Civilian Office of Police Accountability (COPA) received an Initiation Report from the Chicago Police Department's (CPD) Sergeant Mark Peterson alleging misconduct by a CPD member. ██████████ ("Complainant") alleged that on March 25, 2023, Officers Jorge Rivera and Elias Agredano detained the Complainant without justification and used force, causing injury without justification. Upon review of the evidence, COPA served additional allegations that the officers failed to timely activate their body worn cameras (BWCs).

Following its investigation, COPA reached **Exonerated** findings for all three allegations made against the officers.

II. SUMMARY OF EVIDENCE²

On March 25, 2023, Officers Rivera and Agredano were on routine patrol in plain clothes and had existing knowledge that '200 Cut Rate Liquors, located at 204 E 47th St, Chicago, IL 60653, had previous incidents of gang and narcotic activity.³ ██████████ was first spotted walking out of the store.⁴ As officers talked to the cashier, ██████████ returned and engaged with both Officers.⁵ Officers reported that they were told that ██████████ was working doing security for the store and was armed. ██████████ denied telling the officers he was armed in his COPA interview. Officer Rivera questioned ██████████ about a conceal and carry license – to which ██████████ initially stated he does not have one.⁶ ██████████ walked towards the exit and repeatedly told the officers they should leave the liquor store.⁷ As Officer Rivera and ██████████ continued to talk, tensions appeared to escalate, and Officer Rivera grabbed ██████████ by the arm, applied handcuffs, and detained him.⁸ Officers then escorted ██████████ outside where more Chicago Police Officers responded to including Sergeant Ruvalcaba.⁹ Sgt. Ruvalcaba told Officer Rivera that if ██████████ did not have

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 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, Department reports, civilian interviews, and officer statements.

³ Att. 8

⁴ Att. 3 at 0:15

⁵ Att. 3 at 0:47-0:54

⁶ Att. 3 at 2:02

⁷ Att. 3 at 2:26

⁸ Att. 3 at 4:00- 4:54

⁹ Att. 3 at 5:27

anything (warrants), he was going to cut him loose.¹⁰ Following the name check, Sgt. Ruvalcaba told Officer Agredano to remove the handcuffs and cut ██████ loose.¹¹ ██████ complained of soreness to his shoulder as a result of the encounter.

III. ALLEGATIONS

Officers Jorge Rivera:

1. Detained complainant without justification.
Exonerated.
2. Used force, causing injury to complainant, without justification.
Exonerated.
3. Failed to timely activate his Body Worn Camera.
Exonerated.

Officers Elias Agredano:

1. Detained complainant without justification.
Exonerated.
2. Used force, causing injury to complainant, without justification.
Exonerated.
3. Failed to timely activate his Body Worn Camera.
Exonerated.

IV. CREDIBILITY ASSESSMENT

COPA interviewed Officers Rivera and Agredano in August 2023. This investigation did not reveal any evidence that caused COPA to doubt the credibility of any of the individuals who provided statements.

V. ANALYSIS¹²

1. Detained complainant without justification.

COPA finds Allegation #1, detaining complainant without justification, for both Officer Rivera and Officer Agredano, is **Not Sustained**. According to officers, ██████ was asked if he was an armed employee and responded that he was. This led Officer Rivera to ask about ██████ conceal and carry credentials. ██████ then changed his answer to ultimately refusing to respond

¹⁰ Att. 5 at 8:03

¹¹ Att. 5 at 8:14

¹² For a definition of COPA's findings and standards of proof, *see* Appendix B.

after multiple requests.¹³ According to ██████ he did not tell officers that he was armed. If ██████ did respond that he was armed and did not have a conceal and carry, officers would be authorized to detain ██████. However, there is insufficient evidence to determine what ██████ response was. As a result, COPA finds that Allegation #1 against Officers Rivera and Agredano is **Not Sustained**.

2. Used force, causing injury to complainant, without justification.

COPA finds Allegation #2, using force, causing injury to complainant without justification is **Exonerated**. Officers detained ██████ in handcuffs as they were investigating a possibility of a firearm.¹⁴ ██████ resisted and did not comply with verbal commands. He attempted to defeat detention by wrapping his hand around a fence inside of the store.¹⁵ ██████ actions qualified him as an active resister because he refused to follow verbal commands and attempted to defeat the detention.¹⁶ According to the CPD's Use of Force guidelines, active resistance includes attempting to avoid apprehension and failing to comply with a sworn Department member's verbal commands.¹⁷ When faced with an active resister, Officers are authorized to use stunning techniques, takedowns, OC spray, and a taser, to gain compliance. In this case, officers were able to detain ██████ well within those guidelines. As a result, COPA finds that Allegation #2 against Officer Rivera and Agredano is **Exonerated**.

3. Failed to timely activate his Body Worn Camera.

COPA finds Allegation #3 against Officers Rivera and Agredano is **Exonerated**. Department policy dictates, "members will activate the system to event mode at the beginning of an incident and will record the entire incident for all law-enforcement-related activities."¹⁸ Further, "[i]f circumstances prevent activating the BWC at the beginning of an incident, the member will activate the BWC as soon as practical."¹⁹ In this case, Officer Rivera and Agredano both activated their BWCs when the situation with Complainant started to escalate.²⁰ As a result, COPA finds Allegation #3 against the officers, failure to timely activate their body worn camera **Exonerated**.

Approved:

Sharday Jackson
Deputy Chief Administrator – Chief Investigator

Date

¹³ Att. 22, Pg. 12, Ln 18-24 & Pg.13 Ln 1-14

¹⁴ Att. 22, Pg. 26, Ln 21-23

¹⁵ Att. 22, Pg. 16, Ln 6-9

¹⁶ Att. 22, Pg. 26, Ln 1-4

¹⁷ Att. 25

¹⁸ Att. 24, S03-14: Body worn Cameras (III. A. 2.)

¹⁹ Att. 24

²⁰ Att. 23, Pg. 10, Ln 11-15

Appendix ACase Details

Date/Time/Location of Incident:	March 25, 2023 / 7:45 pm / 204 E 47th St, Chicago, IL 60653.
Date/Time of COPA Notification:	March 26, 2023 / 3:47 am
Involved Member #1:	Officer Jorge Rivera, Star #18429, Employee ID # [REDACTED], DOA: June 17, 2019, Unit: 002, Male, Hispanic.
Involved Member #2:	Officer Elias Agredano, Star #15210, Employee ID # [REDACTED], DOA: August 16, 2019, Unit: 02, Male, Hispanic.
Involved Individual #1:	[REDACTED] Male, Black.

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

- G03-02-01: Response to resistance and force options (effective April 18, 2021, to June 28, 2023)
- S03-14: Body Worn Cameras (effective April 30, 2018, 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.²¹ 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.”²²

²¹ 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).

²² *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