



Log # 2019-1437

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On May 10, 2019, 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 May 9, 2019, CPD Officers Bernardo Rodarte and Laura Davis² detained, arrested, and searched him without justification. ██████████ also alleged that Officer Rodarte grabbed him without justification and knocked his phone from his hand without justification. Upon review of the evidence, COPA served an additional allegation that Officers Rodarte and Davis failed to de-escalate their encounter with ██████████

II. SUMMARY OF EVIDENCE³

On May 8, 2019, at approximately 1:10 pm, Officers Rodarte and Davis in their assigned vehicle, were on patrol in the vicinity of ██████████. Officers Rodarte and Davis observe a black male (now known as ██████████ with a hoodie, over his head, lurking though the backyard of 5350 S. Hoyne. According to CPD reports, ██████████ continued to sneak around the rear or the property and appeared to be casing the residence. Officers Rodarte and Davis related that they returned to the front of the residence and observed ██████████ standing on the sidewalk and looking in the direction of the officers.

As Officers Rodarte and Davis approached the area, they observed ██████████ holding something concealed near his waistband/front hoodie pouch area. ██████████ then walked backwards into the front yard and the officers asked ██████████ if he resided at the address. ██████████ refused to answer their question. Officers Rodarte and Davis exited their assigned vehicle and approached ██████████. Officer Davis instructed ██████████ to remove his hands from his pockets. As Officers Rodarte and Davis approached ██████████ held a cellphone in his left hand and told the officers that he did not want to talk to them, while closing the gate.

Officers Davis opened the gate, while telling ██████████ that they wanted to talk to him and asking ██████████ if he resided at the location. Upon entering the gate, Officer Davis touched

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 During the investigation, Officer Laura MacDonald married and changed her name to Laura Davis.

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 five civilian witness interviews, both accused CPD member interviews, third party surveillance and cell phone footage, BWC footage, CPD reports, and photographs.

████████ front hoodie pouch area⁴ and ██████████ struck Officer Davis's hand⁵. Officer Rodarte immediately grabbed ██████████ by his clothing, removed his cell phone from his right hand and threw it to the ground⁶. During this interaction, ██████████ continued to ask the officers not to touch him. Officers Rodarte and Davis grabbed ██████████ by his arms and ██████████ pulled away from the officers, explaining that he had not done anything. In his statement to COPA, ██████████ stated that he resisted because the contact was unlawful and that he was slightly intoxicated. ██████████ admitted that he moved both officers' hands away from him.



⁴ Attachment #15, at approximately 0:42 of Officer Rodarte's BWC

⁵ Attachment #15, at approximately 0:43 of Officer Rodarte's BWC

⁶ Attachment #15, at approximately 0:44 of Officer Rodarte's BWC



Officers Rodarte and Davis directed ██████ to put his hands behind his back. ██████ related that he refused to allow the officers to handcuff him. ██████ informed the officers that he was not a resident at the location and that he was visiting several individuals inside the residence. Eventually, ██████ placed his hands behind his back and the officers were able to handcuff ██████. Officer Davis requested an additional unit for assistance via the Department radio. After the assisting officers arrived, ██████ was placed in the rear of a marked Department vehicle. Throughout the interaction, ██████ denied sneaking around the outside of the residence. ██████ was transported to the 009th District Station and charged with obstructing an officer.

After ██████ was placed inside the marked Department vehicle, Officer Rodarte walked back to the residence and spoke with an unidentified black male (who does not reside at the location) about ██████. The unidentified black male informed Officer Rodarte that ██████ had not been walking around the residence as ██████ recently exited the residence. At some point, an additional unidentified black male (who resides at the location) informed Officer Rodarte that ██████ was visiting at the residence while celebrating ██████ birthday.

In ██████ statement to COPA, he denied walking back and forth in the yard of the residence⁷. ██████ added that the officers searched him after he was handcuffed⁸.

In Officer Rodarte and Davis statement to COPA, Officers both denied observing ██████ attempting to open any doors or windows. Officers Rodarte and Davis also denied observing ██████ holding any burglary tools in his hands as he was walking back and forth on the side of

⁷ Attachment #21, at approximately 24:55 of ██████ interview

⁸ Attachment #21, at approximately 25:48 of ██████ interview

the residence. Officer Davis claimed that she attempted to conduct a protective pat down during the investigatory stop of ██████████ to ascertain whether ██████████ had a firearm or burglary tools. Officer Davis related that ██████████ obstructed her ability to do so by striking her hand. Officers Rodarte and Davis claimed to have reasonable articulable suspicion that ██████████ had either committed a burglary or was about to commit a burglary based on ██████████ appearance of casing/ lurking around the residence. Officers Rodarte and Davis also related that ██████████ committed a battery when he struck their hands. Officers Rodarte and Davis stated that the supervisor in charge ultimately made the decision not to charge ██████████ with a battery.

III. ALLEGATIONS

Officers Bernardo Rodarte and Laura Davis

1. Detaining ██████████ without justification.
 - Exonerated.
2. Arresting ██████████ without justification.
 - Exonerated.
3. Failing to properly de-escalate their encounter with ██████████
 - Not Sustained

Officer Bernardo Rodarte

4. Grabbing ██████████ by the clothing without justification.
 - Exonerated.
5. Placing ██████████ in a restraining hold without justification.
 - Exonerated.
6. Knocking ██████████ phone from his hand without justification.
 - Not Sustained.

Officer Laura Davis

4. Searching ██████████ without justification.
 - Exonerated.

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. ANALYSIS⁹

COPA finds that Allegations #1, 2, 4, and 5 against Officer Rodarte, that Officer Rodarte detained, arrested, grabbed and placed a restraining hold on ██████████ without justification, is **exonerated**. CPD policy, S04-13-09 indicates that members may conduct an Investigatory Stop if it is based on specific and articulable facts which, combined with rational inferences from these facts, give rise to Reasonable Articulable Suspicion that criminal activity is afoot. The sole purpose of the temporary detention is to prove or disprove those suspicions¹⁰. When an officer has detained a subject based upon Reasonable Articulable Suspicion that criminal activity is afoot and, during that detention, develops additional Reasonable Articulable Suspicion that the subject is armed and dangerous or reasonably suspects that the person presents a danger of attach to the other officer or another, the officer may conduct a Protective Pat Down of the outer clothing of the subject for hard objects that could be used as weapons. The Protective Pat Down is only for the purpose of officer and citizen safety; it is not to search for evidence¹¹.

Officers Rodarte and Davis contend that while patrolling in the vicinity of the location, ██████████ appeared to be casing/ lurking around the residence. Upon approach, Officers Rodarte and Davis observed ██████████ standing with his hands in his pockets and suspected that ██████████ may be in possession of burglary tools and/or a firearm. When Officer Davis approached ██████████ she placed her left hand in the pouch area of ██████████ hoodie. At that time, ██████████ struck Officer Davis's hand and Officer Rodarte immediately grabbed ██████████ clothing. Officer Rodarte also placed ██████████ in a restraining hold. In his statement to COPA, ██████████ admitted to striking Officers Rodarte and Davis's hands. After ██████████ actions and resistance, ██████████ was handcuffed, placed in the rear of a marked Department vehicle, and transported to the 009th District Station for processing. Based on the available evidence Officer Rodarte's actions were within the Department's policy.

COPA finds that Allegation #3 against Officers Rodarte and Davis that Officers Rodarte and Davis failed to properly de-escalate his encounter with ██████████ is **not sustained**. In Officers Rodarte and Davis statement to COPA, they claimed that they exercised de-escalation tactics prior to the activation of their BWC's. When Officers Rodarte and Davis approached the location, while inside their assigned vehicle, they attempted to speak with ██████████ to ascertain information regarding his residency. After ██████████ refused to answer the officers' questions, the officers exited their vehicle, activated their BWC's and closed the distance with ██████████ as they suspected ██████████ had committed a crime or was about to commit a crime. Unfortunately, there is no available evidence of what occurred during the officer's initial contact with ██████████ Based on the available evidence there is insufficient evidence to prove and/or disprove the allegation.

COPA finds that Allegation #6 against Officer Rodarte, that Officer Rodarte knocked ██████████ phone from his hand without justification, is **unfounded**. During his interview

⁹ For a definition of COPA's findings and standards of proof, see Appendix B.

¹⁰ See S04-13-09 (V)(A), Investigatory Stop System (effective July 10, 2017 – Present of this report)

¹¹ See S04-13-09 (VI)(A)(1), Investigatory Stop System (effective July 10, 2017 – Present of this report)

Appendix ACase Details

Date/Time/Location of Incident:	May 9, 2019/ 1:10 pm/ 5350 S. Hoyne Avenue, Chicago, IL 60609
Date/Time of COPA Notification:	May 10, 2019/ 4:16 pm
Involved Member #1:	Officer Bernardo Rodarte/ Star # 19762/ Employee ID# [REDACTED]/ DOA: December 2, 2013/ Unit: 610/ Male/ Hispanic
Involved Member #2:	Officer Laura Davis/ Star #16413/ Employee ID# [REDACTED]/ DOA: August 25, 2014/ Unit: 009/ Female/ White
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 1:** Violation of any law or ordinance.
- Rule 4:** Any conduct or action taken to use the official position for personal gain or influence.
- Rule 15:** Intoxication on or off duty.

Applicable Policies and Laws

S04-13-09: Investigatory Stop System (effective July 10, 2017 – 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 allegation 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.¹⁴ 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.”¹⁵

¹⁴ 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).

¹⁵ *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