



Log # 2020-5276

## FINAL SUMMARY REPORT<sup>1</sup>

### I. EXECUTIVE SUMMARY<sup>2</sup>

On November 21, 2020, the Civilian Office of Police Accountability (COPA) received a web complaint from ██████████ (██████████ reporting alleged misconduct by members of the Chicago Police Department (CPD)).<sup>3</sup> In summary, ██████████ alleged that on November 21, 2020, Officer David De La O (Officer De La O) entered her home without justification, used excessive force against her, and acted rude and unprofessional toward her.<sup>4</sup> Upon review of the evidence, COPA served additional allegations that Officer De La O detained and arrested ██████████ (██████████) without justification. Additionally, ██████████ alleged that Officer Roberta Chapa (Officer Chapa) entered the residence without justification.<sup>7</sup> Following its investigation, COPA reached sustained findings regarding the allegation that Officer De La O acted rude and unprofessional toward ██████████

### II. SUMMARY OF EVIDENCE<sup>9</sup>

On November 21, 2020, Officer De La O observed ██████████ in the alley near West 71<sup>st</sup> Street and South Marshfield Ave. Officer De La O drove toward ██████████ as he walked toward Marshfield Ave., blocking his path at the entrance of the alley. Officer De La O stated in his interview that he observed ██████████ waistband area and noticed a large bulge consistent with the shape and size of a firearm.<sup>10</sup> Officer De La O described ██████████ actions as “he looked in my direction and immediately placed his hand on his waistband area in an attempt to conceal the front part of his waistband”, giving Officer De La O “reason to believe that he was in possession of a firearm.”<sup>12</sup> Officer Chapa was seated in the backseat, directly behind Officer De La O, but did not observe a bulge in ██████████ waistband.<sup>13</sup> Officer De La O stopped the squad car and exited to approach ██████████ for an

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> Att. 1.

<sup>4</sup> Att. 2.

<sup>7</sup> ██████████ also made allegations against Officer Robert Schmidt, II. Officer Schmidt has since resigned from CPD. As such, COPA did not serve allegations against him. See Att. 27.

<sup>9</sup> 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, civilian interview, officer interviews.

<sup>10</sup> Att. 26, pg. 12, lines 1-4.

<sup>12</sup> Att. 26, pg. 12, line 8-12, and lines 18-19.

<sup>13</sup> Att. 25, pg. 14, lines 19-21.

investigatory stop to do a field interview.<sup>14</sup> [REDACTED] wearing a red jacket and athletic pants, turned away and ran in the opposite direction, down the alley, and across vacant lots and residential streets.<sup>15</sup> Officers De La O and Roman pursued him on foot from different directions and arrived near [REDACTED] address.

Officer Roman directed Officer De La O to the address, and officers entered the home only after asking an unidentified woman who exited the building whether he [REDACTED] had entered there.<sup>17</sup> Although she did not answer, a basement door was ajar as officers walked toward the entryway where they observed a red jacket inside the building, that looked similar to the one [REDACTED] wore just prior to the foot pursuit.<sup>18</sup> Officer De La O stated that, “based on [his] observations and everything coupled together, [they were] pursuing an armed offender, me and my partners, we acted in hot pursuit of an armed offender, and we entered the residence through the basement.”<sup>19</sup> Officer De La O climbed the interior stairs to the first floor and located [REDACTED] in the stairwell leading to the 2<sup>nd</sup> floor.<sup>20</sup>

Officers encountered several of the home’s occupants, described by Officer De La O as irate and hostile.<sup>21</sup> As more people entered the front room, Officer De La O felt a heightened sense of awareness, concerned about the number of people inside the home, and whether any dogs or weapons were available to the occupants.<sup>22</sup> As the officers’ presence became apparent to occupants, an altercation ensued that led some of the occupants to physically hold onto [REDACTED] obstructing the officers from taking [REDACTED] into custody.<sup>23</sup> During his interview with COPA, and after he reviewed his body-worn camera (BWC) video footage, Officer De La O stated that, “[REDACTED] appeared to try to remove officers from placing [REDACTED] into custody.”<sup>24</sup> Officer De La O attempted to explain the situation and the police presence to [REDACTED] to deescalate and gain compliance.<sup>25</sup> [REDACTED] responded by telling him to leave her home.<sup>26</sup>

The BWC footage captured the incident inside the home, including Officer De La O’s and [REDACTED] actions. Officer De La O tapped [REDACTED] on the shoulder, and she pulled away from him and moved toward [REDACTED].<sup>27</sup> Officer De La O, [REDACTED] and several occupants were standing closely to each other with multiple officers entering and exiting the home and involved in either

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<sup>14</sup> Att. 26, pg. 12, lines 20-22.

<sup>15</sup> Att. 7 at 1:55 – 2:15.

<sup>17</sup> Att. 26, pg. 14, lines 14-18.

<sup>18</sup> Att. 7 at 3:31.

<sup>19</sup> Att. 26, pgs. 14-15, lines 20-24 and line 1.

<sup>20</sup> Att. 26, pgs. 28, lines 1-2.

<sup>21</sup> Att. 26, pg. 33, line 5.

<sup>22</sup> Att. 26, pg. 38, line 15-24.

<sup>23</sup> Att. 26, pg. 41, lines 5-7.

<sup>24</sup> Att. 26, pg. 37, line 1-3.

<sup>25</sup> Att. 26, pg. 33, line 8-15.

<sup>26</sup> Att. 7 at 4:50.

<sup>27</sup> Att. 7 at 5:07.

pulling or holding onto ██████ became uncooperative and resistant, as the group increased in size and officers were unable to effectively communicate.<sup>29</sup>

Officer Chapa relocated to the address and could hear screaming coming from inside the building. She entered the home to assist her partners in controlling ██████ and the occupants.<sup>30</sup> Officer De La O issued verbal commands, such as “Get back”.<sup>31</sup> BWC footage captured Officer De La O yelling, “Shut the fuck up” and “Get the fuck back” throughout the encounter.<sup>32</sup> Occupants surrounded the officers when Officer De La O used his baton to create space between the groups.<sup>33</sup> Officers arrested ██████ and charged him with reckless conduct.<sup>34</sup>

In his interview with COPA, Officer De La O denied pushing or hitting ██████ explaining, “I don’t recall if it was a direct push, it might have been an inadvertent bump, or something, or I got pushed or something into her, but it was never nothing [*sic*]intentional”.<sup>35</sup> BWC footage captured ██████ involved in the incident and interfering by physically holding onto ██████ as officers attempted to place him into custody.<sup>36</sup> Also captured was Officer De La O’s attempt to communicate with ██████ This included tapping ██████ on the shoulder, while other people surrounded her and yelled, “Don’t touch my OG [Mother]”.<sup>37</sup> Officer De La O also denied acting rude and unprofessional, explaining that his attempt to explain the police presence was ineffective because he was unable to have a conversation to clarify the police action.<sup>38</sup> He stated he did not recall using profanity during this incident.<sup>39</sup>

### III. ALLEGATIONS

#### **Officer David De La O:**

1. Entering ██████ home without justification.
  - Exonerated.
2. Using excessive force against ██████
  - Not Sustained.
3. Acting rude and unprofessional toward ██████
  - Sustained, Rules 2, 3, 6 and 8.
4. Detaining ██████ without justification.
  - Exonerated.
5. Arresting ██████ without justification.

<sup>29</sup>Att. 26, pg. 35, line 23 and pg. 37, lines 20-21

<sup>30</sup> Att. 25, pg. 12, lines 1-12.

<sup>31</sup> Att. 26, pg. 42, line 16.

<sup>32</sup> Att. 7 at 4:31 and 5:37.

<sup>33</sup> Att. 26, pg. 41, lines 10-14.

<sup>34</sup> Att. 5, pg. 1.

<sup>35</sup> Att. 26, pg. 44, lines 44-16.

<sup>36</sup> Att. 7 at 5:20.

<sup>37</sup> Att. 7 at 5:04.

<sup>38</sup> Att. 26, pg. 45, lines 22-24 and pg. 46, lines 1-6.

<sup>39</sup> Att. 26, pg. 46, lines 7-8.

- Exonerated.

**Officer Roberta Chapa:**

1. Entering the residence of [REDACTED] without justification.
  - Exonerated.

**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. ANALYSIS<sup>40</sup>**

**a. Entering [REDACTED] Home and Detaining and Arresting [REDACTED]**

COPA finds allegation #1, that Officers De La O and Chapa entered [REDACTED] home without justification, are **exonerated**. In addition, COPA finds allegations #4 and #5, that Officer De La O detained and arrested [REDACTED] without justification, are also **exonerated**.

Warrantless searches of citizens and their property have been strictly limited by the Fourth Amendment of the United States Constitution and the Illinois Constitution, which established “the right of individuals to be free from unreasonable searches and seizures.”<sup>48</sup> The protection of the Fourth Amendment against warrantless searches is activated whenever 1) a situation arises in which a person has a subjective expectation of privacy and, 2) that person’s expectation is one that society is prepared to recognize as “reasonable.”<sup>49</sup> Consequently, law enforcement officers are generally prohibited from entering or searching within a citizen’s residence, whether it be to search for specific items of evidence or to make an arrest, without first obtaining a lawful warrant based upon probable cause.<sup>50</sup>

However, some exceptions to the rule against warrantless searches have been recognized by the United States Supreme Court. For example, exigent circumstances, such as the hot pursuit of a fleeing felon, preventing the destruction of evidence, or preventing a suspect’s escape, may justify entering or searching inside a residence without a warrant.<sup>51</sup> In order for this exception to be allowed, the particular details of the situation must indicate that “immediate and serious consequences” would result if police activities were to be postponed for the length of time it would take to first obtain a warrant, as the justification for the exigent circumstances exception depends “upon the gravity of the offense thought to be in progress....”<sup>52</sup> Another warrantless residential

<sup>40</sup> For a definition of COPA’s findings and standards of proof, see Appendix B.

<sup>48</sup> *People v. Colyar*, 2013 IL 111835, ¶ 31 (citing U.S. Const., amend. IV; Ill. Const. 1970, art. I, § 6).

<sup>49</sup> *Katz v. United States*, 389 U.S. 347 (1967).

<sup>50</sup> *Payton v. New York*, 445 U.S. 573, 586 (1980). See G02-01(IV)A.

<sup>51</sup> *Minnesota v. Olson*, 493 U.S. 955, 1000 (1990).

<sup>52</sup> *Welsh v. Wisconsin*, 466 U.S. 740, 753 (1984).

search exception permits law enforcement officers who are performing an in-house arrest to conduct a limited protective sweep over an area of the premises as long as the searching officer possesses a reasonable belief (based on articulable facts) that the area to be swept harbors an individual who poses a danger to those present.<sup>53</sup>

Here, Officers De La O and Chapa were justified in entering ██████ home under the hot pursuit exception to the warrant requirement. According to Officer De La O, numerous factors contributed to his decision to enter ██████ home, including: his observations of the large bulge similar in shape and size of a firearm in the waistband of ██████ pants, ██████ attempt to conceal his waistband and evade police, and the location of a red jacket similar to ██████ inside the ██████ residence. He also relied upon Officer Roman's identification of the address. While Officer Chapa stated that she did not see the bulge in ██████ waistband, she responded to her partners' actions and the quickly evolving situation by relocating to ██████ residence. Officer Chapa's decision to enter the home was to assist her partners, for the safety of the public and individuals inside the home considering the loud sounds including screams coming from inside the residence. The evidence shows that the officers pursued a subject they reasonably believed was armed and who fled into an occupied residence, which created an immediate and potentially dangerous situation for the people inside. Given that the officers were engaged in a hot pursuit, COPA finds that Officers De La O and Officer Chapa were justified in entering ██████ residence, and allegations #1 against them are exonerated.

Officers are allowed to temporarily detain and question a person, however this investigatory stop is not a voluntary contact.<sup>54</sup> Based on Officer De La O's experience and ██████ behavior, Officer De La O believed that he had reasonable suspicion to investigate someone who attempted to conceal a firearm and entered a private residence to evade police. ██████ actions of fleeing upon sight of clearly identifiable police officers, running through traffic and entering ██████ residence was justification for Officer De La O to pursue ██████ and place him under arrest. As such, COPA has determined that Officer De La O had reasonable articulable suspicion to detain ██████ therefore Allegation #4, that he detained ██████ without justification, is exonerated. In addition, Officer De La O had probable cause to arrest ██████ and allegation #5 against Officer De La O, that he arrested ██████ without justification, is also exonerated.

#### **b. Excessive Force Against ██████**

COPA finds the allegation that Officer De La O used excessive force against ██████ is **not sustained**. CPD policy authorizes force that is objectively reasonable, necessary, and proportional to the threat, actions, and level of resistance offered by a subject, under the totality of the circumstances.<sup>55</sup>

<sup>53</sup> *Maryland v. Buie*, 494 U.S. 325 (1990).

<sup>54</sup> Att. 33, Special Order S04-1-09 Investigatory Stop System (effective July 10, 2017, to current).

<sup>55</sup> Att. 32, G03-02 Use of Force (effective 29 February 2020 to April 01, 2021).

BWC footage captured the incident inside ██████ residence, including ██████ and Officer De La O's. However, it is not clear if excessive force occurred as alleged by ██████. The BWC footage could not capture what occurred because officers were standing very close to various civilians during the fast-moving physical altercation. The officers tried to employ force mitigation techniques including continual communication, time, and tactical positioning. Unfortunately, these tactics proved ineffective because ██████ continually told Officer De La O to get off ██████ first.<sup>56</sup> ██████ interfered with a lawful police action and placed herself in danger of being injured by either officers or occupants. Officer De La O's BWC footage captured him moving around the room and interacting with multiple occupants in the home. At times, his BWC footage is unclear, and the incident was not captured on other officers' BWC footage. There is no independent verifiable evidence to support the allegation of excessive force. COPA finds that there is insufficient evidence to prove the allegations by a preponderance of the evidence that Officer De La O used excessive force against ██████ and allegation #2 is not sustained.

**c. Acting Rude and Unprofessional toward ██████**

COPA finds the allegation that Officer De La O acted rude and unprofessional towards ██████ is **sustained**. Verbal abuse by an officer is a violation of CPD policy and rules of conduct. Verbal abuse can include rude and unprofessional conduct. CPD Rule 8 expressly prohibits disrespect to or maltreatment of any person, while on or off duty.<sup>60</sup> It is undisputed that Officer De La O repeatedly directed profanity at ██████ and other civilians, as it was captured on BWC footage. While COPA has taken into consideration the heightened concerns and tensions of the situation, officers are to be held to a higher standard of conduct; acting rude and unprofessional is a violation of CPD rules and regulations. Given that Officer De La O repeatedly directed profanity at ██████ COPA finds that allegation #3, that he was rude and unprofessional, is sustained, in violation of rules 2, 3, 6 and 8.

**VI. DISCIPLINARY RECOMMENDATION**

**a. Officer David De La O**

**i. Complimentary and Disciplinary History<sup>61</sup>**

Officer De La O's complimentary history is comprised of 129 awards, the highlights of which include four Department Commendations, two Police Officer of the Month Awards, one Honorable Mention Ribbon Award, two Police Officer of the Month Awards, one Superintendent's Award of Tactical Excellence, one Top Gun Arrest Award, and one Unit Meritorious Performance Award. His disciplinary history includes two SPARs; an October 2022 preventable accident, resulting in no disciplinary action, and an August 2023 absence without permission, resulting in no disciplinary action.

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<sup>56</sup> Att. 7 at 5:10.

<sup>60</sup> Att. 31.

<sup>61</sup> Att. 30.

**ii. Recommended Discipline**

COPA has found that Officer De La O violated Rules 2, 3, 6 and 8 when he was rude and unprofessional to ██████████ COPA appreciates that this incident occurred quickly, and tensions were running high. However, directing profanity at a civilian was both unnecessary and unprofessional. In light of Officer De La O’s extensive complimentary history and lack of significant disciplinary history, COPA recommends a penalty of a **reprimand** and **training on professionalism**.

Approved:

██████████ #13

January 22, 2024

\_\_\_\_\_  
Steffany Hreno  
*Director of Investigations*

\_\_\_\_\_  
Date

Appendix ACase Details

Date/Time/Location of Incident:	November 21, 2020 / 1:00 pm / [REDACTED]
Date/Time of COPA Notification:	November 21, 2020, at 3:13 pm.
Involved Member #1:	David De La O, Star #9329, Employee ID # [REDACTED], Date of Appointment June 27, 2016, Unit of Assignment 189, Male, White Hispanic
Involved Member #2:	Roberta Chapa, Star 16572, Employee ID # [REDACTED], Date of Appointment May 27, 2014, Unit of Assignment 189, Female, White Hispanic
Involved Individual #1:	[REDACTED] Female, African American
Involved Individual #2:	[REDACTED] Male, African American

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.

Applicable Policies and Laws

- S04-13-09, Investigatory Stop System (effective July 10, 2017, to current).
- G03-02-01, Force Options (effective 29 February 2020, to April 01, 2021).
- Rules and Regulations of the Chicago Police Department, (effective April 2015 to current).



## 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.<sup>62</sup> 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.”<sup>63</sup>

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<sup>62</sup> 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).

<sup>63</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4<sup>th</sup> 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