



Log # 2021-3939

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

### I. EXECUTIVE SUMMARY

On October 4, 2021, the Civilian Office of Police Accountability (COPA) received an Initiation Report from Lieutenant (Lt.) Sherry Alvarez-Pena, #432, alleging misconduct by a CPD member. Lt. Alvarez-Pena alleged that on October 4, 2021<sup>2</sup>, at approximately 1:05 am, in the vicinity of 3940 N. Sheridan Road, Field Training Officer (FTO) David Alegre Jr., used improper force when he placed his knee on [REDACTED] head.<sup>3</sup> Upon review of the evidence, COPA served an additional allegation that FTO Alegre failed to activate his Body Worn Camera (BWC) in a timely manner. Following its investigation, COPA reached a sustained finding regarding the allegation of failing to activate his BWC in a timely manner.

### II. SUMMARY OF EVIDENCE<sup>4</sup>

On October 4, 2021, at approximately 1:05 am, FTO Alegre responded to the Sheridan Red Line in the vicinity of 3940 N. Sheridan regarding an Assault in Progress and an officer being injured. When FTO Alegre arrived, he observed [REDACTED] lying on the Chicago Transit Authority (CTA) platform and several uniformed officers attempting to restrain and handcuff [REDACTED]. FTO Alegre walked over, placed his right knee on the platform and assisted by restraining [REDACTED] left arm with both of his hands. Additional uniformed officers restrained [REDACTED] feet and legs. In his statement to COPA, FTO Alegre explained that [REDACTED] continued to resist by attempting to bend FTO Alegre's fingers and moving his body.

[REDACTED] told the officers that he hated them and requested that the officers let him go. Moments later, [REDACTED] spat on FTO Alegre's vest and face.<sup>5</sup> FTO Alegre related that he slightly turned his head away and placed his left knee on [REDACTED] head to prevent [REDACTED] from spitting on him again.<sup>6</sup> Additional officers moved in immediately to assist and FTO Alegre moved his left knee away. FTO Alegre denied resting his knee on [REDACTED] head. FTO Alegre had no knowledge

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<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> The allegations served to FTO Alegre has the incorrect incident date of October 3, 2021.

<sup>3</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>4</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, video footage from CTA, police reports, evidence technician photos, medical records, and Officer Alegre's statement to COPA. Several attempts were made to contact and interview [REDACTED] with negative results.

<sup>5</sup> Atts. #9 – 12:36; #10 – 9:22; 13 – 8:48; #14 – 7:22; 22 – 3:23 (BWC Footages)

<sup>6</sup> Atts. #9 – 12:36; #10 – 9:22; 13 – 8:48; #14 – 7:22; 22 – 3:23 (BWC Footages)

as to whether ██████ sustained any injuries as a result of him placing his knee on ██████ head. FTO Alegre did not sustain any visible injuries, nor did he receive medical treatment.

██████ was transported to Illinois Masonic Medical Center where he was diagnosed with Bipolar, Schizophrenia and substance abuse. Upon release from the hospital, ██████ was transported to the district station where he was processed and charged with aggravated assault, aggravated battery and criminal damage to government property.

### III. ALLEGATIONS

#### Officer David Alegre:

1. Striking ██████ on his face/head with his knee without justification.
  - Not Sustained.
2. Failing to activate his Body Worn Camera (BWC) in a timely manner.
  - Sustained, Violation of Rules 2, 3, 5, 6.

### 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. ANALYSIS<sup>7</sup>

COPA finds that Allegation #1 against FTO Alegre, that he struck ██████ on his face/head with his knee without justification, is **Not Sustained**. Prior to the arrival of several CPD members, ██████ damaged the CTA train car with a hammer and made attempts to open the conductor's secured door. When the CPD members arrived, ██████ resisted, refused to follow directions and bit Officer Guryk on his lower left leg. When FTO Alegre arrived, he assisted with restraining ██████ by holding ██████ left arm with both hands and directing ██████ to stop moving his hands. ██████ then spat on FTO Alegre's vest and face.

In his statement to COPA, FTO Alegre contends that he placed his knee on ██████ head to avoid receiving an additional battery. When additional officers stepped up to assist, FTO Alegre removed his knee, which he states was half of a second. The available evidence supported FTO Alegre's statement that he immediately removed his knee when additional officers assisted. FTO Alegre denied resting his knee on ██████ head. FTO Alegre explained that his hands were not available as he was restraining ██████ FTO Alegre described ██████ as being highly explosive, very aggressive, appeared to be high and threatening officers, which is captured and corroborated on the BWC of all officers on scene. FTO Alegre's actions were not that of retaliation or malice, FTO Alegre was attempting to avoid receiving an additional battery. Some mitigating factors to consider in this case, are the facts that ██████ bit assisting Officer Guryk during the encounter,<sup>8</sup>

<sup>7</sup> For a definition of COPA's findings and standards of proof, see Appendix B.

<sup>8</sup> Att. #9 – 6:41 and Att.

threatening to cause harm to the officers and spat on FTO Alegre. Finally, , G03-02-01, restricts “intentional striking of a person's head or neck with an impact weapon”<sup>9</sup>; however, in this instance COPA Finds the FTO Alegre Placed his knee against ██████ head as a measure of control against ██████ and not a striking use of force, as prohibited by the directive.

COPA finds that Allegation #2 against FTO Alegre, that he failed to activate his Body Worn Camera (BWC) in a timely manner, is **sustained**. In his statement to COPA, FTO Alegre denied failing to activate his BWC in a timely manner. FTO Alegre related that he tapped his BWC to turn on while responding to the location of the incident. FTO Alegre added that when he arrived at the location, he assumed that his BWC was on. FTO Alegre stated he tapped his BWC again while holding ██████ after realizing that his BWC had not activated. The available evidence does not support FTO Alegre’s claim. The available evidence depicted that FTO Alegre activated his BWC after he assisted with restraining ██████<sup>10</sup> FTO Alegre’s actions violated Department’s policy regarding the activation of BWC’s. In accordance with policy, FTO Alegre, completed a Tactical Response Report (TRR) to document the encounter with ██████<sup>11</sup>

## **VI. DISCIPLINARY RECOMMENDATION**

### **a. FTO David Alegre Jr.**

#### **i. Complimentary and Disciplinary History<sup>12</sup>**

Officer Alegre has received 33 various awards and over the span of five years has not acquired a disciplinary history.

#### **ii. Recommended Discipline**

COPA has found that FTO Alegre violated Rules 2,3,5, and 6 failed to activate his body worn camera in a timely manner during this incident. CPD documentation (TRR) indicated that supervisory staff admonish FTO Alegre for his improper BWC use. Accordingly, COPA recommends Violation Noted.

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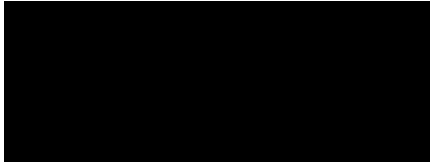
<sup>9</sup> G03-02-01 – IV. A.3

<sup>10</sup> Att. #22 – 00:00 BWC of FTO Alegre

<sup>11</sup> Att. #30

<sup>12</sup> Att. #123

Approved:



January 5, 2024

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Matthew Haynam  
*Deputy Chief Administrator – Chief Investigator*

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Date

Appendix ACase Details

Date/Time/Location of Incident:	October 4, 2021 / 01:05 am / 3940 N. Sheridan Road, Chicago, IL 60613.
Date/Time of COPA Notification:	October 4, 2021 / 9:51 am.
Involved Officer #1:	FTO David Alegre / Star #4948 / Employee ID # [REDACTED] / DOA: April 1, 2013 / Unit: 019 / Male / 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 \_\_:** *[Insert text of any additional rule(s) violated]*

Applicable Policies and Laws

- S03-14 – Body Worn Cameras<sup>13</sup>
- G03-02 – De-Escalation, Response to Resistance, and Use of Force<sup>14</sup>

<sup>13</sup> Att. #120 S03-14: Body Worn Cameras (4/30/2018 – present)

<sup>14</sup>Att. #122 G03-02: De-Escalation, Response to Resistance and Use of Force (4/15/21-6/28/23)

## 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>15</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>16</sup>

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<sup>15</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>16</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 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